

1 NEIL G. CARLSON, MS, CIH
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE DISTRICT OF SOUTH DAKOTA
4
5 -----

SOUTHERN DIVISION

6 STEVE AND ALLISON GARRY,
7 Plaintiffs,

8 vs.

CIV. 03-4019

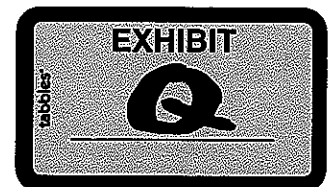
9 HOMELAND CENTRAL INSURANCE
10 COMPANY formerly known as HAWKEYE
11 SECURITY INSURANCE COMPANY,
12 Defendant.
13 -----

13 DEPOSITION

14 The following is the deposition of
15 NEIL G. CARLSON, MS, CIH, taken before Patricia K.
16 Carl, RPR, Notary Public, pursuant to Notice of Taking
17 Deposition, at the offices of Robins, Kaplan, Miller &
18 Ciresi, LLP, 2800 LaSalle Plaza, 800 LaSalle Avenue,
19 Minneapolis, Minnesota, commencing at approximately
20 1:10 p.m., October 22, 2004.

21 COPY
22

23 * * * * *



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1 NEIL G. CARLSON, MS, CIH
2 APPEARANCES:

3
4 On Behalf of the Plaintiffs:

5 Ronald A. Parsons, Jr., Esquire
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14 On Behalf of the Defendant:

15 John S. Stadler, Esquire
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18 Boston, Massachusetts 02110-2131
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21 On Behalf of the deponent:

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1 NEIL G. CARLSON, MS, CIH

2 PROCEEDINGS

3 Whereupon, the deposition of NEIL G. CARLSON,
4 MS, CIH, was commenced at 1:10 p.m. as follows:

5
6 NEIL G. CARLSON, MS, CIH,
7 after having been first duly sworn,
8 deposes and says under oath as follows:

9 ***

10 EXAMINATION

11
12 BY MR. STADLER:

13 Q. Good morning, sir. We are taking the
14 deposition of Mr. Neil Carlson today in conjunction
15 with a case entitled Steve and Allison Garry versus
16 Hawkeye Security Insurance Company that is pending in
17 the United States District Court for the District of
18 South Dakota, Southern Division.

19 Will you please state your full name.

20 A. Neil Geoffrey Carlson.

21 Q. Where do you reside?

22 A. I reside at 216 16th Avenue South, New
23 Brighton, Minnesota, 55112.

24 Q. Are you currently employed?

25 A. Yes. I am employed at the University

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1 NEIL G. CARLSON, MS, CIH

2 DEPOSITION REFERENCE INDEX

3 EXAMINATION

4 By Mr. Stadler: 4

5 OBJECTIONS

6 By Mr. Conlin: 16, 25, 26, 34, 35, 43, 67, 70, 88,
7 103, 119, 143, 157, 162, 177, 178, 179, 180, 182

8 By Mr. Parsons: 50

9 By Mr. Stadler: 69

10 EXHIBIT INDEX

11 EXHIBIT NO. 1 MARKED, Notice of Taking Deposition.....5

12 EXHIBIT NO. 2 MARKED, Report.....5

13 EXHIBIT NO. 3 MARKED, Multi-page document/
14 Toxicity screening results.....5

15 EXHIBIT NO. 4 MARKED, Articles.....11

16 EXHIBIT NO. 5 MARKED, Articles.....13

17 EXHIBIT NO. 6 MARKED, Article.....13

18 EXHIBIT NO. 7 MARKED, GeoTek report.....34

19 EXHIBIT NO. 8 MARKED, 9/2/02 Microbial Assessment
20 For Fountain Drive, Sioux Falls, SD.....127

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1 NEIL G. CARLSON, MS, CIH

2 of Minnesota and I also am president of N.G. Carlson
3 Analytical.

4 Q. For what period of time have you been
5 an employee of the University of Minnesota?

6 A. I have been an employee of the
7 University of Minnesota since -- started July, 1988.
8 (Whereupon, Carlson Deposition
9 Exhibit Nos. 1-3 were marked for
10 identification.)

11 BY MR. STADLER:

12 Q. I have marked as Exhibit 2 a document
13 that is entitled Plaintiffs' Rule 26(a) Disclosure of
14 Neil Carlson, and it consists of a number of things,
15 one of which is a CV of Mr. Carlson. I'm going to
16 show him Exhibit 2 and ask you, sir, if the CV,
17 curriculum vitae in Exhibit 2, accurately reflects
18 your employment history?

19 A. I would say probably '88 instead of
20 '89.

21 Q. When you are referring to '88, what are
22 you talking about?

23 A. No. Correct. It is '88. '89 is when
24 I became a public health specialist. '88 is when I
25 was a safety technician, so that is correct. The

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employment history is correct.

Q. You are referring to the first page of your curriculum vitae or your resume, so to speak?

A. That is correct, yes.

Q. So your full employment history is set forth in these first two pages here, you began in 1984, at least the first job I see listed here is a natural science judge at county fairs. Do you see that?

A. Yeah. I did some odd jobs before then. That is where I started out the resume. The odd jobs would have been painting, et cetera.

Q. Okay. What did you do prior to today to prepare for this deposition?

A. I reviewed my report on the information that we had, and then I reviewed some journal articles with respect to some information that was germane to the case. And then what else did I do?

Q. When you say the report, you are referring to Exhibit 2 that I marked here?

A. Yes. I reviewed my report, and then I looked at this document. What exhibit is that entitled?

Q. Are you referring to Exhibit 3?

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A. Yeah, I looked at Exhibit 3.

Q. Exhibit 3 is a multi-page document I received today it appears for the first time from Garrys' attorney just a few minutes before the deposition. The first page of it is on the apparent letterhead of Eckardt Johanning, J-O-H-A-N-N-I-N-G, MD, and it's entitled Toxicity Screening Results. Is that the document that you referred to?

A. That is exactly the document I referred to. And then we had some questions about the report so I called Dr. Johanning, or Tom Conlin called Dr. Johanning to clarify what item number 4 space board meant. And that item space board means they took a sample from the actual filter, and then I had a question about how long that filter had been in the house, so Tom Conlin contacted the Garrys and asked them about what the filter change schedule was for the house and then when was the last time that that filter had been changed, and he indicated that the last time he knew about when the filter had been changed, it hadn't been changed since they had left the house. So that was informative to me.

Q. So those are the three items that you reviewed prior to coming here today to give testimony

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in this case, is that correct? Let me just --

A. If you mean immediately, I reviewed all of these documents as well, or were you talking about just today?

Q. Let me back up a second. It would be very helpful for the court reporter if you allow me to finish my question before you answer. I will try not to interrupt you and you try not to interrupt me. It makes it a lot easier.

Before coming here today to prepare for your testimony today, did you review what has been marked as Exhibit 2 which includes items with eight tabs?

A. I didn't look today at the all of the reports in the item eight tabs. I looked at my summary report.

Q. Exhibit 2?

A. Exhibit 2, yes.

Q. Did you also review Exhibit 3?

A. Yes, I did.

Q. Other than Exhibit 2, the main body of your report, and Exhibit 3, what else, and these journal articles, what else before today did you review to prepare for this testimony?

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A. I also reviewed briefly your consultant's report. I have to find that one. I cursory reviewed the URS report, June 11, 2004.

Q. Anything else did you review prior to coming here today to testify?

A. I am trying to recall if there is anything else. Not at this time. If I recall it later on, I will appraise you of that.

Q. What journal articles did you refer to when you said you reviewed some journal articles prior to coming here to testify?

A. The journal article that I referred to, and I think I have still got it here, these three, a cursory review is -- the other one is an article from I believe it's ACOEM. It's the American Academy of Occupational and Environmental Medicine.

Q. Is that an article that was co-authored by Dr. Andrew Jackson, do you recall?

A. I do not recall if it was or not. I hope I have it along. I may have reviewed it at my desk.

Q. That is a possibility?

A. Yes. Here it is. Actually I have it.

That one, American College of Occupational and

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NEIL G. CARLSON, MS, CIH**Environmental Medicine.**

Q. For the record, let me just identify, it appears the four journal articles that Mr. Carlson just pulled from his file which he says he reviewed in part?

A. Yes, correct.

Q. Prior to coming here today to give his testimony in this case. The first is entitled, it's an article from the American College of Occupational and Environmental Medicine, an entity that published this article. The article is entitled, "Adverse Human Health Effects Associated With Molds in the Indoor Environment," dated October 27, 2002.

The second article is entitled, "Understanding the Current Interest in Mold Litigation From an Industrial Hygienist's Perspective," and it appears to have been published as part of the ABA section of litigation annual conference May 5 through 8, 2004.

The third appears to have been printed out from the internet perhaps. It's entitled, "An Overview of the Health Effects Due to Mold Exposure."

A. I have to double-check.

Q. Presented at the Indoor Air 2002 ninth

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international conference on indoor air quality and climate.

And then the fourth article is entitled, "Mold - It's Not New - It Only Seems That Way," by Mona Shum and Rod Bronstein. There is no date apparent on the document.

MR. STADLER: I wanted to just mark these collectively as Exhibit 4.

(Whereupon, Carlson Deposition Exhibit No. 4 was marked for identification.)

(Discussion had off the record.)

MR. STADLER: Back on the record.

BY MR. STADLER:

Q. Have you been retained by any party in this case to testify?

A. Sir, may I enter that I recall as per our discussion two other documents that I did review, so I apologize for not being forthcoming. These are two documents that I reviewed with respect to the case.

Q. You are handing me a one-page document which is dated by fax apparently 7/19/2002?

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A. That is correct, sir.

Q. And it is referencing a report by Environmental Microbiology Laboratory, Inc.?

A. That is correct.

Q. It refers to sampling done on July 18, 2002?

A. That is correct, sir, yes.

Q. You reviewed that. Let's keep that aside for a moment.

The other document is a multi-page document, the first page of which is dated July 18th, 2003, from a John Neville, PhD, at PK - Jarvis Microbiological to Neil Carlson, is that correct?

A. That is correct, yes.

Q. Do you know whether the first one-page document you have referenced from Environmental Microbiology Labs is already in your report?

A. I do not know, but I recall looking specifically at the page and I did not know if it was in the report, so I wanted to make sure I was thorough.

Q. As to this second document, the July 18, 2003 document from PK Jarvis, is that in your report?

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A. I do not know if that one is.

MR. STADLER: Let's mark these both collectively. Strike that. Let's mark first the one-page document, we are up to Exhibit 5 I believe, let's mark that as Exhibit 5, and the second document as Exhibit 6.

(Whereupon, Carlson Deposition Exhibit Nos. 5 and 6 were marked for identification.)

BY MR. STADLER:

Q. Have you been retained by Steve and Allison Garry for purposes of testifying in this case?

A. Yes, I have, sir.

Q. When were you retained?

A. I do not recall that. I do not recall when I was retained.

Q. Do you recall whether you were retained in 2003 as opposed to 2002?

A. I do not recall if it was 2002 or 2003. It would be in one of the reports as far as what time I was retained.

Q. When you say one of the reports, are you talking about the report that you issued in this case?

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A. No. It would be in one of the earlier reports where I mentioned us going to investigate the Garry residence, and we had some prior discussions to going to that residence, and I recall them being in the wintertime, and I don't recall whether those occurred in January or December. So it would be either 2002 or 2003.

Q. For example, in Exhibit 2, your report at tab 5 there is this GeoTek report referring to a test on March 11th and May 7th, 2003. Do you see that?

A. Yes, and I was part of that.

Q. Do you recall having been involved prior to March, 2003?

A. Yes. There was discussions about whether we should go travel to the residence, and we discussed sampling strategy and things prior to that.

Q. But is it your memory that you were not retained before January 1, 2003?

MR. CONLIN: He just answered the question for you. He said it's either 2002 or 2003. Now what are you asking him to do?

MR. STADLER: For purposes of the record would you identify yourself, sir?

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MR. CONLIN: Sure. I am Tom Conlin and I am representing the deponent.

MR. STADLER: Are you representing the Garrys?

MR. CONLIN: I represent the Garrys, but not in this case.

MR. STADLER: In what other case do you represent the Garrys?

MR. CONLIN: It's not any of your business. I represent the Garrys.

MR. STADLER: Is Mr. Carlson being offered here for purposes only of the case involving Steven and Allison Garry versus Hawkeye Security Insurance Company for which this witness was noticed today?

MR. CONLIN: That is correct.

MR. PARSONS: Yes, that is why we brought him today. And I, Ron Parsons, represent the Garrys in this case.

MR. STADLER: Mr. Conlin, you represent him in his personal capacity?

MR. CONLIN: I am his lawyer for his deposition today.

MR. STADLER: So you represent him in

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his personal capacity?

MR. CONLIN: I represent him for his deposition today.

MR. STADLER: Are you representing as well Mr. Carlson's company that he referred to earlier in his deposition?

MR. CONLIN: Which company?

THE WITNESS: N.G. Carlson Analytical, Inc.

MR. CONLIN: To the extent he is here as a representative of that company today, yes, I am representing him in that capacity as well.

BY MR. STADLER:

Q. Sir, do you recall whether you were retained by the Garrys to testify in this case prior to January 1, 2003?

MR. CONLIN: Objection. Asked and answered. You can try to answer again if you want to.

THE WITNESS: I frankly don't know.

BY MR. STADLER:

Q. You brought a set of documents here as a part of your file on this case?

A. Yes.

Q. Again, you are going to have to let me

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finish the question before you answer.

Do you have a copy of the retention agreement in that file before this case, a written agreement with the Garrys or your counsel for representing the Garrys in this case?

MR. CONLIN: The case for which the deposition has been noticed?

MR. STADLER: The only case I am aware of that exists between the Garrys and Hawkeye Security Insurance Company is the one we have noticed the deposition for.

MR. CONLIN: That is the case being discussed, Neil.

THE WITNESS: I don't know if there was a written agreement specifically between myself and the Garrys.

BY MR. STADLER:

Q. My question was with counsel. Have you been retained by any counsel?

A. Yes, I have.

Q. Who is that?

A. That is the Johnson -- I'm not sure of the name of it.

MR. CONLIN: Johnson Heidepriem.

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1 NEIL G. CARLSON, MS, CIH
 2 THE WITNESS: Johnson Heidepriem.
 3 BY MR. STADLER:
 4 Q. They retained you for purposes of your
 5 testimony in this case?
 6 A. Yes.
 7 Q. You don't know whether you have a
 8 written agreement with the Johnson firm for giving
 9 testimony in this case, is that correct?
 10 A. I don't recall if we ever had a written
 11 agreement on that, sir.
 12 Q. What is your understanding as to what
 13 the Garrys are claiming against Hawkeye Security in
 14 this case?
 15 A. My basic understanding is that they are
 16 claiming water damage and that subsequent mold growth
 17 from the water damage caused a problem with their
 18 house that based on medical opinion made it not
 19 habitable for them.
 20 Q. What do you understand they are
 21 claiming as to what the source of the water damage
 22 was, as to their claim against Hawkeye?
 23 A. The central claim, as I understand it,
 24 is a problem associated with a toilet leak that led to
 25 fungal growth in the house.

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1 NEIL G. CARLSON, MS, CIH
 2 Q. Where was the toilet that you are
 3 referring to?
 4 A. The toilet leak was in the master
 5 bedroom directly above the southwest bedroom.
 6 Q. Is it your understanding that the
 7 Garrys are seeking to recover for property damage
 8 caused by that leaking toilet against their insurance
 9 carrier, Hawkeye?
 10 A. I believe so, yes.
 11 Q. Do you know whether the Garrys are
 12 seeking to recover against Hawkeye any damages for any
 13 personal injuries in this case?
 14 A. This case, I don't believe they are
 15 attempting personal injury.
 16 Q. Do you know of any other case where
 17 they are doing that?
 18 A. Yes, I do.
 19 Q. What case is that?
 20 A. I don't know the title of the case, but
 21 there is a personal injury case, yes, sir.
 22 Q. When was that filed?
 23 A. I do not know.
 24 Q. Are you going to testify with respect
 25 to that case?

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1 NEIL G. CARLSON, MS, CIH
 2 A. I do not know.
 3 Q. Do you know against whom that case was
 4 brought?
 5 A. I do not know.
 6 Q. How do you know there is a personal
 7 injury case pending?
 8 A. I have been appraised of that by Mr.
 9 Conlin.
 10 MR. CONLIN: Mr. Stadler, he is wrong
 11 about that. The case has not been filed yet.
 12 THE WITNESS: Okay. Then I did not
 13 know whether it was filed or not.
 14 BY MR. STADLER:
 15 Q. What do you know about when this water
 16 damage from a leaking toilet occurred, what do you
 17 know about the facts of that situation?
 18 A. I understand the facts from reports
 19 written, summary reports from GeoTek Engineering, and
 20 that sometime, and my recollection is 1999, but that
 21 date could be inaccurate, but sometime during that
 22 portion there was a water leak and the ceiling
 23 collapsed, and there was fungal growth identified on
 24 the sheetrock, and that is the extent of it.
 25 Q. Fungal growth identified in 1999?

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1 NEIL G. CARLSON, MS, CIH
 2 A. Fungal growth identified, I believe it
 3 would be referenced to this particular document.
 4 Q. You are referring to July of 2002, July
 5 18th?
 6 A. That is correct.
 7 Q. In fact, in your report which has been
 8 marked as Exhibit 2, there are several GeoTek reports
 9 referring to an event where the Garrys detected what
 10 was suspected to be mold in the southwest bedroom of
 11 the basement of their home, is that correct?
 12 A. That is correct.
 13 Q. In July of 2002, correct?
 14 A. Yeah.
 15 Q. But you mention 1999. What do you
 16 understand about what happened in 1999?
 17 A. I understand not from my personal
 18 understanding, but from discussions about it, that
 19 there was a slow leak with the toilet, but I did not
 20 personally witness it. It is just my understanding
 21 there was a slow leak with the toilet.
 22 Q. Were you told also that slow leak was
 23 repaired in 1999?
 24 A. I was not told anything about that.
 25 Q. Were you told at any time that mold had

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1 NEIL G. CARLSON, MS, CIH
 2 been detected by the Garrys in 1999 under that toilet
 3 and that the mold had been removed at that time?
 4 MR. CONLIN: Which mold, Counsel, if
 5 you could clarify.
 6 BY MR. STADLER:
 7 Q. Were you told at any time by anyone
 8 that mold was detected underneath the toilet in the
 9 master bedroom and in the ceiling of the southwest
 10 bedroom in the Garry home in 1999?
 11 **A. I don't recall when, and I am going to**
 12 **ask for a clarification. Are we talking about when**
 13 **the material was removed from the ceiling?**
 14 Q. I am talking about, sir, if you bear
 15 with me, you made reference to mold found apparently
 16 in July of 2002 in the ceiling of the southwest
 17 basement, correct, or in the sheetrock of the
 18 southwest basement, correct?
 19 **A. That is when the analysis was**
 20 **conducted.**
 21 Q. Right. I am talking about prior to
 22 that. Prior to that in 1999 were you told, did you
 23 become aware prior to that in 1999 that the Garrys had
 24 detected mold in the ceiling of the southwest basement
 25 right below the master bedroom toilet?

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1 NEIL G. CARLSON, MS, CIH
 2 MR. CONLIN: I object to the form of
 3 the question as to the word detected. I don't know
 4 what you mean by it.
 5 BY MR. STADLER:
 6 Q. If you understand what I mean by the
 7 word detected, you can answer that question, sir.
 8 **A. I don't know specific dates with**
 9 **respect to detected. I understand that at sometime**
 10 **prior to this sample, that --**
 11 Q. And you are referring to the July, 2002
 12 sampling, correct?
 13 **A. Yeah, that sometime prior to that**
 14 **sample they had -- the ceiling collapsed and they saw**
 15 **visible mold growth on the sheetrock. At whatever**
 16 **event that particular time happened there was notice**
 17 **of visible mold growth at that time.**
 18 Q. You are referring to the fact that in
 19 July of 2002, before the sampling that was done that
 20 was referenced in Exhibit 5, the Garrys and/or a
 21 consultant detected what they thought was mold in the
 22 sheetrock of the southwest bedroom, correct?
 23 **A. Yeah, sometime to prior to that they**
 24 **saw some sheetrock that had fungal growth on it.**
 25 Q. Are you also aware though that three

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1 NEIL G. CARLSON, MS, CIH
 2 and a half years before or two and a half years before
 3 in 1999 Mrs. Garry also noticed what was suspected to
 4 be mold in the ceiling below the master bedroom
 5 toilet? Are you aware of that? That is all I am
 6 asking you, sir.
 7 MR. CONLIN: It assumes facts not in
 8 evidence.
 9 MR. STADLER: I am asking if he is
 10 aware of the fact, not whether he is assuming.
 11 MR. CONLIN: Your question contains a
 12 premise that isn't established.
 13 BY MR. STADLER:
 14 Q. Let me back up. Have you reviewed
 15 prior to today any testimony given by Mrs. Garry in
 16 this case?
 17 **A. No, I have not.**
 18 Q. Have you reviewed any testimony given
 19 by Mr. Steven Garry in this case?
 20 **A. No, I have not, sir.**
 21 Q. Would your opinion or opinions, plural,
 22 as they appear in Exhibit 2 be changed in any way if
 23 you knew that in 1999 Mrs. Garry had observed what was
 24 thought to be mold in the ceiling of the southwest
 25 bedroom under the toilet, and that that mold was

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1 NEIL G. CARLSON, MS, CIH
 2 removed at that time?
 3 MR. CONLIN: I object to the form of
 4 the question. It assumes facts not in evidence. And,
 5 Neil, I'm going to let you answer the question, but
 6 you should read your report in full before you answer
 7 that question, because it's only fair if he is asking
 8 you whether any opinion in your report is going to
 9 change if you assume what he said is true. Why don't
 10 you get your report and read it.
 11 MR. STADLER: It's my deposition, Mr.
 12 Conlin. I will do as I see fit.
 13 BY MR. STADLER:
 14 Q. Sir, you have given a report in this
 15 case, correct?
 16 MR. CONLIN: You know what, John, you
 17 don't need to be rude.
 18 MR. STADLER: No one is rude. No one
 19 has been rude at all today. You are interrupting me
 20 during the middle of my questioning. If you let me go
 21 forward with my questioning, you can give the witness
 22 your instructions. We are speaking as professionals.
 23 No one is rude.
 24 MR. CONLIN: You are speaking with a
 25 tone that is disrespectful of this witness.

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1 NEIL G. CARLSON, MS, CIH
 2 MR. STADLER: I respectfully disagree.
 3 I am not going to spend three hours in that capacity.
 4 MR. CONLIN: I have a question to you.
 5 Are you withdrawing your former question, are you
 6 changing it, are you withdrawing your former question?
 7 MR. STADLER: I will withdraw my
 8 question and I will proceed.
 9 BY MR. STADLER:
 10 Q. Sir, you have given opinions in this
 11 case?
 12 **A. That is correct, sir.**
 13 Q. Those opinions appear in your report as
 14 marked as Exhibit 2, correct?
 15 **A. That is correct, sir.**
 16 Q. You have a memory here today separate,
 17 apart of reading this report of what your opinions
 18 are, correct?
 19 MR. CONLIN: You mean in their
 20 totality?
 21 MR. STADLER: Yes.
 22 THE WITNESS: No, I would not recall my
 23 memory as being that good. I would need to refer to a
 24 document if you are asking some specific questions,
 25 sir.

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1 NEIL G. CARLSON, MS, CIH
 2 BY MR. STADLER:
 3 Q. We'll do that later this afternoon,
 4 sir. What I am asking you first though is without
 5 looking at the report, what opinion or opinions are
 6 you giving in this case?
 7 MR. CONLIN: That is not a fair
 8 question. You can refer to your report if you want
 9 to, Neil. I don't know -- what's the purpose for the
 10 question, Counsel?
 11 MR. STADLER: The purpose is to try to
 12 expedite the deposition, and assuming he gives me an
 13 answer that I agree with, I won't have to ask him in
 14 depth about his report. If he says, "I cannot do
 15 that, sir," it's a simple response and I will move on.
 16 MR. CONLIN: It's not a fair question
 17 to ask him what his opinions are when they are written
 18 right in front of you. It's not a memory test,
 19 Counsel.
 20 MR. STADLER: It is. To some extent it
 21 is and that is why we have depositions. He is trying
 22 to remember what happened over the time he has looked
 23 at this instance and these circumstances. I'm asking
 24 him of his memory of things. If he is going to tell
 25 me he doesn't recall, he would like to look at his

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1 NEIL G. CARLSON, MS, CIH
 2 report, that is fine, he can look at his report. You
 3 know that is the procedure. I am not trying to do
 4 anything different than the normal procedure.
 5 MR. CONLIN: It's never been my
 6 experience for any good lawyer to ask a witness, "Tell
 7 me what your opinions are," when they are written
 8 right in front in the report. It's simply an effort
 9 to trick him.
 10 BY MR. STADLER:
 11 Q. Let me ask you to take a look at your
 12 report and tell me what your opinion or opinions are
 13 in this case.
 14 **A. Thank you very much, sir.**
 15 MR. CONLIN: To expedite matters, you
 16 can simply refer him to the pages of the report where
 17 your opinions are found.
 18 THE WITNESS: Okay. Thank you, sir.
 19 Let's go to my report, summarizes locations where
 20 various organisms were found within the house, and I
 21 list the location where Chaetomium was primarily found
 22 and where Stachybotrys was primarily found and where
 23 Aspergillus versicolor and Penicillium was primarily
 24 found, and summarize that. With respect to indoor
 25 fungal growth, I summarized the contribution of the

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1 NEIL G. CARLSON, MS, CIH
 2 master bedroom toilet leak, indicating that it
 3 contributed to the growth of Stachybotrys, Chaetomium,
 4 Aspergillus versicolor and Penicillium, and that based
 5 on this, you can look at the indoor fungal
 6 contribution in the master bedroom toilet leak if you
 7 would like to have a full piece, but that is the
 8 essence of the summary of the report.
 9 BY MR. STADLER:
 10 Q. So the essence of your testimony that
 11 you propose to give in this case as you are giving
 12 today is that you believe that the toilet leak in the
 13 master bedroom above the southwest bedroom contributed
 14 to the presence of mold in the Garry home, is that
 15 correct?
 16 **A. That would be an accurate summary.**
 17 Q. Good. What else contributed to the
 18 growth of mold in the Garry home as far as you are
 19 aware as of August 1st, 2002, when the Garrys left
 20 their home?
 21 **A. As of 2002?**
 22 Q. August 1st. And you are aware they did
 23 leave their home in or about that time, correct?
 24 **A. Yeah, around that time. I will need to**
 25 **refer to specific -- there is a specific summary in**

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NEIL G. CARLSON, MS, CIH

one of the GeoTek reports that laid out the specific moisture incidents that occurred within the house.

Q. There were multiple moisture incidents, correct?

A. That is correct, sir, yes.

Q. They were separate and apart from the leaking toilet?

A. That is correct, sir.

Q. In fact, there were at least two sewer backups in the Garry home prior to August of 2002, one in 1996 and one in July of 2002?

A. That is correct, sir, yes.

Q. There was also water intrusion from a number of windows in the basement bedrooms in the Garry home over time, correct?

A. Yes. I have been made aware that there was leaking in the windows.

Q. There was also a refrigerator leak that occurred about a month or so after the Garrys left, correct?

A. To be specific, I think it was associated with the ice maker.

Q. That is exactly right, and thank you for reminding me about that. As a result of that

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NEIL G. CARLSON, MS, CIH

incident, there was a significant amount of water that went down into the basement area at that time, correct?

A. Yes. I believe it went in the rec room, directly underneath in the rec room area.

Q. There was also, in the GeoTek report I have seen and you have reviewed and is part of your report here today that referenced a water intrusion through a lighting fixture?

A. That would be the upper level, correct. And if I can refer to a house plan, I know exactly where it is.

Q. Why don't we do that.

A. Let's take a look, sir.

Q. I can show you, we are referring to tab 1 of Exhibit 2, and it's a GeoTek report and has a floor plan, correct?

A. This is the lower level.

Q. The next page is the upper level.

A. As I recall, it was this office (indicating).

Q. You are referring to the northwest office, right?

A. That is correct, sir.

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NEIL G. CARLSON, MS, CIH

Q. And that occurred a number of years before the toilet leak was detected, correct?

A. I don't recall when this occurred.

Q. That is referenced in the GeoTek report, right?

A. Yes.

Q. Are you aware of any evidence that the toilet leaked after 1999?

A. I don't know about that.

Q. You don't know whether the toilet leak was repaired in 1999, correct?

A. I was not appraised of that.

Q. You are aware of this sewer backup that occurred in July of 2002, correct?

A. Yes, I am.

Q. And, in fact, the extent of that backup is referenced in this chart that is set forth in tab 1 of Exhibit 2, right?

A. That is correct. That is my understanding.

Q. There is an area that is circled and then some shading in that that references the approximate area of the sewage backup, right?

A. That is correct, yes.

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NEIL G. CARLSON, MS, CIH

Q. And then there is in that same chart a notation in the upper corner of the southwest bedroom showing that this is where visible mold was found from allegedly the leaking toilet above, right?

A. That is correct, yes.

Q. And the GeoTek report referred to a sewer backup several years prior, correct? I can give you that reference.

A. As I recall, there was, right.

Q. In January of '96, is that correct?

A. That is correct, yes, sir.

Q. Were you also aware that in July, or June and July of 2003 there was a major rainfall, and at that time water intrusion was detected through the concrete foundation of the basement in the Garry home, coming through the concrete foundation of the Garry basement?

MR. CONLIN: Are you asking him to assume that is how the water got there?

MR. STADLER: No. I'm asking him if he is aware of the report that is how the water got there.

THE WITNESS: My recollection, I'm not sure if it's included in this particular part of it.

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1 NEIL G. CARLSON, MS, CIH
 2 Is it included in that piece or not?
 3 BY MR. STADLER:
 4 Q. I don't think it's in your reports. I
 5 will mark a document now, Exhibit 7, which is a
 6 four-page document, the first page dated July 9th,
 7 2003, GeoTek report to Mr. Tom Conlin, referencing
 8 site assessment following water intrusion of July of
 9 '03.
 10 **A. Thank you for appraising me of that.**
 11 **(Whereupon, Carlson Deposition**
 12 **Exhibit No. 7 was marked for**
 13 **identification.)**
 14 BY MR. STADLER:
 15 Q. Were you aware of this prior to today,
 16 this event?
 17 **A. I don't recall if I was. I knew there**
 18 **had been several water intrusion events, and I don't**
 19 **recall if I had particular knowledge of this event.**
 20 MR. CONLIN: I think your question
 21 initially to him that prompted his review of this
 22 report and your marking of it or your supplying of it
 23 assumed that there was a report that said it had come
 24 through the foundation wall. I object to your
 25 question on that basis.

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1 NEIL G. CARLSON, MS, CIH
 2 BY MR. STADLER:
 3 Q. Let me refer you to page 3 of this
 4 document, Exhibit 7. Under the section referring to
 5 outside, the second paragraph, it states, "It was also
 6 noted there is a crack in the foundation cement right
 7 along the south corner of the NW bedroom." Do you see
 8 that?
 9 **A. Yes, I do see that.**
 10 Q. After that quote it says, "These may be
 11 sources of water intrusion into the northwest basement
 12 bedroom." Do you see that?
 13 **A. Yes, I do.**
 14 MR. CONLIN: My objection stands. The
 15 difference between may and the premises of your
 16 question was that in fact that was the case, and may
 17 is different. When you look at the end of the report,
 18 it makes it clear there are other possible causes. I
 19 object to it on that grounds. You are trying to trick
 20 him.
 21 MR. STADLER: I don't disagree there
 22 are a number of possible sources of water intrusion
 23 into the basement, especially in July of 2003 and
 24 before. That is the purpose of my earlier questions
 25 to the witness.

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1 NEIL G. CARLSON, MS, CIH
 2 MR. CONLIN: I don't want you to
 3 misquote the documents.
 4 MR. STADLER: I'm not misquoting the
 5 documents.
 6 MR. CONLIN: Neil, be very careful with
 7 respect to these questions to not presume the document
 8 says that.
 9 BY MR. STADLER:
 10 Q. This is another event though, sir, is
 11 it not?
 12 **A. This is another event where water came**
 13 **into the Garry residence.**
 14 Q. It has nothing to do with a leaking
 15 toilet, correct?
 16 **A. That is correct, sir.**
 17 Q. Let's look at tab 8 of your report, if
 18 I could.
 19 **A. Sir, would you like me to put this back**
 20 **on top?**
 21 Q. You can hold on to your report. Look
 22 at that report. It's dated December 17, 2003. It's
 23 apparently a letter to Mr. Tom Conlin I believe from
 24 GeoTek, but again, I haven't looked at the last page
 25 recently.

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1 NEIL G. CARLSON, MS, CIH
 2 **A. We'll take a look. It is from GeoTek.**
 3 Q. Mr. Wilkinson?
 4 **A. Yes, sir.**
 5 Q. Are you familiar with him?
 6 **A. Yes, I am.**
 7 Q. Have you worked with him in conjunction
 8 with this case?
 9 **A. Yes, I have.**
 10 Q. Have you reviewed any reports that Mr.
 11 Wilkinson or GeoTek prepared with respect to the Garry
 12 home?
 13 **A. Yes, I have, sir.**
 14 Q. What does this report in general refer
 15 to?
 16 **A. This report refers to some visible mold**
 17 **growth that Mr. Thompson, a person from the Twin City**
 18 **area who specializes in mold abatement, he noted some**
 19 **fungal growth on a wall. In fact, this is a poor --**
 20 **I think I might even have a colored report on this**
 21 **one. He noticed in I believe it's the utility**
 22 **storeroom, and it was on a shelving unit, and it lists**
 23 **the type of organisms that were present on that**
 24 **particular surface.**
 25 Q. Going back now to tab 1 of Exhibit 2

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1 NEIL G. CARLSON, MS, CIH
 2 where we had the schematic of the basement, where is
 3 the utility room in conjunction with the northwest
 4 bedroom?
 5 **A. The utility room is right in this area**
 6 **(indicating).**
 7 Q. North of the northwest bedroom, right?
 8 **A. That is correct, sir, yes.**
 9 Q. And there was mold detected in that
 10 area?
 11 **A. There was mold detected on the -- from**
 12 **these pictures on the concrete wall, let's see, it**
 13 **would be second level. If we don't call this a level,**
 14 **it would be the second level of the shelving unit on**
 15 **the wall.**
 16 Q. This mold that is referenced in this
 17 report that was found in December of 2003, that has
 18 nothing to do with the leaking toilet, does it?
 19 **A. It does not, sir.**
 20 Q. I think this was tab 8. Correct?
 21 **A. Yes, sir.**
 22 Q. Now, when you referred earlier a few
 23 minutes back to the general conclusion you reached in
 24 terms of your opinion for this case and you referred
 25 to basically the last page of your report?

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1 NEIL G. CARLSON, MS, CIH
 2 **A. Yes.**
 3 Q. When you talked about the contribution
 4 of the leaking toilet, what percentage of the mold in
 5 the house is attributable to a leaking toilet compared
 6 to or in comparison to any mold that was the result of
 7 sewer backups over the years or other water
 8 intrusions?
 9 MR. CONLIN: Calculated how?
 10 MR. STADLER: He is the expert. Let
 11 him answer that question first. He can put whatever
 12 contingencies or parameters he wants on it. If it
 13 cannot be done, it cannot be done.
 14 MR. CONLIN: I would like the record to
 15 be clear what is being asked.
 16 MR. STADLER: Would you read it back,
 17 please.
 18 MR. CONLIN: I would like some
 19 clarification whether you are talking in terms of the
 20 spore count, the areas affected, the migration of the
 21 spores throughout the house, over what period of time.
 22 There are too many ways to measure that to get a
 23 meaningful answer without it being misleading.
 24 BY MR. STADLER:
 25 Q. My question, sir, is very simple. As

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1 NEIL G. CARLSON, MS, CIH
 2 of August 1, 2002, let's start there when the Garrys
 3 left the home because of their apparent concern for
 4 mold in the home, what percentage and proportion of
 5 the mold, however you want to define it, by spore
 6 count, by raw count, however you want to define it, in
 7 the house was attributable to the leaking toilet in
 8 comparison to any mold, however you want to define it,
 9 that resulted from sewer backup in 1996, sewer backup
 10 two or three weeks before they moved out of their
 11 house, leaking windows in the home, however you want
 12 to define it, what percentage of the mold?
 13 MR. CONLIN: Just another
 14 clarification, Counsel. Are you including in your
 15 question about mold all of the different types of
 16 species, are you asking for differentiation between
 17 them, or whether you are asking for, included within
 18 your question is every single species of mold that the
 19 home is affected with?
 20 MR. STADLER: That is a fair
 21 qualification.
 22 BY MR. STADLER:
 23 Q. You are referring primarily in your
 24 report to four types of molds, is that correct?
 25 **A. That is correct, sir, yes.**

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1 **NEIL G. CARLSON, MS, CIH**
 2 Q. Let's break those up a little bit. As
 3 to Stachybotrys and Chaetomium, you say they are the
 4 primary sources of the mold in the home is from the
 5 southwest bedroom and in the northwest bedroom, right,
 6 that is your opinion?
 7 **A. That is correct.**
 8 Q. You then say that type of mold in the
 9 northwest bedroom and the southwest bedroom was
 10 attributable to a leaking toilet, right?
 11 **A. That is correct, sir, yes.**
 12 Q. So we have those types of mold. Those
 13 two types of mold were found in other rooms in
 14 addition to the northwest bedroom and the southwest
 15 bedroom, right?
 16 **A. Spores were found.**
 17 Q. Right. So the answer is correct?
 18 **A. Yes.**
 19 MR. CONLIN: Qualified the way it was,
 20 spores were found.
 21 BY MR. STADLER:
 22 Q. Spores were found in other areas?
 23 **A. That is correct, yes, sir.**
 24 Q. As to those two types of mold as of
 25 August 1st, 2002, what percentage of the mold, the

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NEIL G. CARLSON, MS, CIH

spores as you refer to them, Stachybotrys and Chaetomium, do you attribute to the leaking toilet in comparison to any spores of those mold types that were attributable to a sewer backup in either '96 or in 2002 or water intrusion through windows or water intrusion through a ceiling fixture from any other source? Do you understand my question?

A. I believe so, and if I respond in a way that doesn't indicate so, please feel free to follow up, sir.

Q. I appreciate that.

A. My understanding is you are restricting it for purposes of this question to Chaetomium and Stachybotrys, is that correct, sir?

Q. Yes.

A. Thank you. With respect to actual visible growth in the dispersal of the spores, the two bedrooms, bedroom two and three of the southwest and northwest, approximately 90 percent with respect to those two particular molds.

Q. Now, at the time that you -- let me back up. You talked about visible mold?

A. In other words --

MR. CONLIN: He didn't. He talked

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NEIL G. CARLSON, MS, CIH

about visible mold and disbursement of spores.

BY MR. STADLER:

Q. When you are talking about disbursement of spores, you are talking about Chaetomium and Stachybotrys spores found in air sampling done in those rooms?

MR. CONLIN: I object to the question. It's ambiguous.

THE WITNESS: As I understand, I need to respond because objections are ruled on later, is that correct, sir? Okay. It is those two particular sources.

BY MR. STADLER:

Q. When you say two sources --

A. Of the southwest and the northwest bedrooms are the primary sources for those two particular molds in this house. The one instance where we had an elevation of I believe it was both Chaetomium and Stachybotrys in the rec room was a sample taken after aggressive sampling was taken in the southwest and the northwest bedroom, and previous samples to the best of my recollection did not have as elevated Stachybotrys and Chaetomium counts in the rec room.

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NEIL G. CARLSON, MS, CIH

Q. Thank you. As to the southwest and northwest bedrooms, isn't it fair to say that the amount of Stachybotrys and Chaetomium found either visible or the amount of dispersion of spores was visibly higher in the northwest bedroom?

A. The air counts on that, that would be correct. Typically the airborne counts -- if you can indulge me for a moment, I need to refer to the aggressive sampling report on that to recall.

Q. I'm talking about again August 1st of 2002. I don't think any aggressive sampling had been done prior to that?

A. No.

Q. That is my question.

MR. CONLIN: The tests were done before that.

MR. STADLER: Are irrelevant from my standpoint. I'm not asking about those.

MR. CONLIN: The problem with your question with why it is misleading and ambiguous and why I object to it is as Mr. Carlson has pointed out, the testing done after August 1 of 2002 informs an expert like Mr. Carlson about what was the state of affairs before that date. If you ask him to divest

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NEIL G. CARLSON, MS, CIH

himself of the knowledge gained after August 1 of 2002 in answering a question about before, he can't answer the question.

MR. STADLER: I don't agree necessarily with your position, but I understand what you are saying. Let me approach it this way, sir.

BY MR. STADLER:

Q. As of August 1, 2002, there had been some sampling done, right?

A. Correct, yes.

Q. In fact, there was only one day of sampling done, I think it was July 29, 2002, for purposes of air sampling in the home?

A. I think so. And I want to ask a question on it. Was that the Nova report that you are referring to?

Q. I'm referring to the GeoTek report that is in tab 1. The Nova report for testing was done in September of 2002, sir.

A. If you can refer, is it in this?

Q. Yes.

A. Thank you, sir.

Q. Tab 1. It's right in there. July 29, do you see that, July 30?

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NEIL G. CARLSON, MS, CIH

A. Yes. The date of sample was the 29th.

Q. Let me just ask you this, sir: Are you aware of any air or bulk sampling done in the Garry home prior to July 29th, 2002?

A. I don't recall if the Nova report was done prior to that, sir.

Q. I will show you the Nova report.

A. Was that after that?

Q. September 4th, 2002. It's tab 2 of your own report.

MR. CONLIN: The report was issued. But when the air sampling was done for purposes of this report, that is the question.

MR. STADLER: That was September.

THE WITNESS: We don't know.

BY MR. STADLER:

Q. The air sampling and the testing was done on September 4th, 2002 by Nova. It's in the daily log report in the middle of the document. It is marked as tab 2 to Exhibit 2.

A. All right.

Q. All I'm asking you, sir, is a very simple question.

A. Yes.

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NEIL G. CARLSON, MS, CIH

Q. Based on what you know, was there any air sampling or bulk sampling done in the home of the Garrys prior to July 10th, I will take that date, 2002, when the sewer backup occurred?

A. I was not aware of any.

Q. So there is no baseline for what existed in the Garry home in term of mold counts prior to the sewer backup, correct?

A. As far as I know, yes. I haven't been appraised of any reports.

Q. So a sewer backup occurs and you showed me on this map that is set forth in the GeoTek report what the area of that backup was, correct?

A. Yes, sir.

Q. That backup affected the northwest bedroom, correct?

A. It affected the north end of the northwest bedroom.

Q. Among other areas, right?

A. Among other -- pardon me, sir?

Q. What other areas did the sewer backup in July of 2002 affect?

A. It affected the adjacent bathroom to the northwest bedroom. It also affected the laundry

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NEIL G. CARLSON, MS, CIH

room. It affected a storage room closet off of the rec room. And it affected the storage room, and I think it has also been referred to as the utility room.

Q. You don't have any evidence or any information as to what the extent of the sewer backup was in January of 1996, do you?

MR. CONLIN: You mean no information at all or do you mean --

MR. STADLER: As to the extent of it, yes, that is what I'm asking.

BY MR. STADLER:

Q. Do you have any information as to the extent of the sewer backup that occurred in January of 1996?

A. I have at sometime been appraised of the rough, of it occurred, but I don't recall the exact extent of it.

Q. So if you look at this schematic drawing that appears in tab 1 on Exhibit 2, which reflects the sewer backup on July of 2002, you can't really tell me whether the sewer backup in January of 1996 was greater in extent or lesser in extent?

MR. CONLIN: Based on his memory today?

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NEIL G. CARLSON, MS, CIH

MR. STADLER: Yes.

THE WITNESS: Based on my memory today, no.

BY MR. STADLER:

Q. Can you state today whether the mold levels in the Garry home would have been elevated after the toilet leak in the master bedroom had there not been any sewer backups at any time?

MR. CONLIN: Which mold?

MR. STADLER: Generally. Mold in the house.

MR. CONLIN: Any kind of mold?

MR. STADLER: Yes.

BY MR. STADLER:

Q. Any kind of mold.

A. Sir, I would like you to rephrase it or you could read it back to me. I just want to make sure I understand it.

MR. STADLER: Can you read it back?

(Requested portion of the record was read by the reporter.)

MR. CONLIN: I assume the hypothetical is asking him to assume that all other things were equal except there was no problem with the master

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1 NEIL G. CARLSON, MS, CIH
 2 toilet, is that the gist of the question?
 3 THE WITNESS: Let me ask a question.
 4 BY MR. STADLER:
 5 Q. Do you have a basis for testifying in
 6 this case that in the absence of all other events, the
 7 leaking toilet would have caused elevated mold levels
 8 generally in the Garry home?
 9 MR. CONLIN: All by itself?
 10 MR. STADLER: Yes.
 11 MR. PARSONS: Object as vague.
 12 THE WITNESS: The water from the
 13 leaking toilet that contacted the porous surface,
 14 which in this case was sheetrock, and later when it
 15 was, when it caved in the carpet, did have -- at
 16 sometime had fungal growth.
 17 BY MR. STADLER:
 18 Q. Is that elevated?
 19 A. And so it at sometime elevated the
 20 fungal spore levels. The question would be during the
 21 course of sampling, you often find no levels and then
 22 times where you will find levels that will be up and
 23 will be variable, because the spore release into the
 24 environment will be highly variable. Does that help
 25 you out?

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1 NEIL G. CARLSON, MS, CIH
 2 Q. Are you saying you cannot determine
 3 whether the leaking toilet in and of itself would have
 4 resulted in elevated mold levels in the Garry home?
 5 MR. CONLIN: He answered yes to that
 6 question, Counsel. I wish you wouldn't try to trick
 7 him.
 8 BY MR. STADLER:
 9 Q. So you are saying at some point in time
 10 the leaking toilet would have resulted in elevated
 11 mold levels in the home?
 12 A. The leaking toilet and the subsequent
 13 water on a surface that can grow mold, in other words,
 14 on a sheetrock or whatever, would have and has at
 15 least in the air sampling data elevated those
 16 particular -- elevated airborne counts in particular
 17 respect to Chaetomium and Stachybotrys.
 18 Q. And Stachybotrys and Chaetomium was
 19 found in other areas of the home in addition to the
 20 southwest bedroom, correct?
 21 MR. CONLIN: Do you mean spores?
 22 THE WITNESS: The spores were found in
 23 other areas, I believe. And may I refer to the
 24 report? I believe there was a location in, and I am
 25 going to need to refer to this, but I believe

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1 NEIL G. CARLSON, MS, CIH
 2 Chaetomium was found also in base trim of the laundry
 3 room and northwest corner of rec room.
 4 BY MR. STADLER:
 5 Q. Was that Chaetomium the result of a
 6 leaking toilet in the Garry home?
 7 A. Those particular ones, no.
 8 Q. What were they the result of?
 9 A. I am unaware of the exact precise cause
 10 for those.
 11 Q. So what percentage of the Chaetomium
 12 that was found in the home at any given time was
 13 attributable to the leaking toilet?
 14 A. My best estimate on that would be
 15 approximately 90 percent, because the areas that were
 16 identified that I am aware of on the other ones were
 17 small areas of growth.
 18 Q. Are you talking about visible growth,
 19 right?
 20 A. That is correct, sir, yes. Visible
 21 growth on surface.
 22 Q. I am talking about what about
 23 Chaetomium found in air sampling?
 24 A. In air sampling?
 25 Q. Yes.

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1 NEIL G. CARLSON, MS, CIH
 2 A. Let me refer to that. And this is
 3 particular to Chaetomium, correct, sir?
 4 MR. CONLIN: It's particular more
 5 importantly to Chaetomium spores only, am I correct,
 6 sir?
 7 THE WITNESS: In the air.
 8 BY MR. STADLER:
 9 Q. When I am talking air, I am talking
 10 spores. If I should be talking something else, please
 11 let me know.
 12 A. You are correct, sir. The highest
 13 counts were found in the southwest and the northwest
 14 bedrooms. Lower counts were found in the downstairs
 15 bathroom, basement storage room and master bedroom
 16 and, yup.
 17 Q. When you say northwest bedroom,
 18 Chaetomium found in the air samples there, how do you
 19 know that Chaetomium came from a leaking toilet and
 20 not from the sewer backup that occurred in July of
 21 2002?
 22 A. Well, that is one that I will diagram
 23 out for you and we can talk through it later so we can
 24 clarify it.
 25 Q. We have a diagram here, sir. Maybe you

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1 NEIL G. CARLSON, MS, CIH
 2 can draw on this, because it's part of your report.
 3 Before you start putting pen to pad, we are going to
 4 use this, it is marked as Exhibit 2, so you are not
 5 going to be able to erase it.
 6 MR. CONLIN: Do you have a pencil?
 7 THE WITNESS: Pencil would be helpful,
 8 but it is going to be pretty straight forward.
 9 MR. CONLIN: Why don't we use a pencil.
 10 Let's just take a bathroom break and I will get a
 11 pencil.
 12 (Recess taken.)
 13 BY MR. STADLER:
 14 Q. The witness has made some markings on a
 15 GeoTek Engineering drawing that appears at tab 2 to
 16 Exhibit 2. I'm sorry, tab 1 to Exhibit 2. Would you
 17 describe what you have done, sir?
 18 A. **When Tim Wilkinson and I did the**
 19 **investigation, we pulled back the carpet around the**
 20 **perimeter of the southwest bedroom and all the way**
 21 **along the northwest bedroom.**
 22 Q. When was that investigation? I don't
 23 mean to interrupt.
 24 A. **That would have been -- let's see.**
 25 **Let's go back to here, refresh my memory. That would**

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1 NEIL G. CARLSON, MS, CIH
 2 **have been the first of the two that we did, so that**
 3 **would have been --**
 4 Q. Is this March, 2003? Earlier you
 5 referred to two visits, March and May of 2003?
 6 A. **I have to remember if we did it on that**
 7 **earlier one or subsequent one. I may need to look at**
 8 **the report to determine which one that was.**
 9 Q. I believe --
 10 A. **That is the big report, number 5.**
 11 **Thank you, sir. So that would have been -- yeah, it**
 12 **would have been -- let's see what date this is. March**
 13 **11th, 2003.**
 14 Q. That is when you made some observations
 15 concerning some water staining, correct?
 16 A. **That is correct, yes, sir.**
 17 Q. And the water staining was along
 18 several walls of the southwest bedroom and the
 19 northwest bedroom, correct?
 20 A. **Yeah.**
 21 Q. Go back to your drawing. There we go.
 22 The verbal description on page 4 of 19 on that is
 23 number 5. Actually it should be tab 4. You told me
 24 earlier that report you are referring to should be tab
 25 5. I just want to make certain for purpose of the

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1 NEIL G. CARLSON, MS, CIH
 2 record what it is.
 3 A. **It's the March 11th and May, 2003. So**
 4 **we can make sure it's clear.**
 5 Q. Let me make sure we are on the same
 6 page. March 11th, and May 7th, 2003, that report,
 7 June 19, 2003?
 8 A. **No. This report is March 11th and May**
 9 **7th.**
 10 Q. If you will look at your report, sir,
 11 item 4 says report dated June 19th, 2003.
 12 MR. CONLIN: It's the third page.
 13 THE WITNESS: June 19, 2003.
 14 BY MR. STADLER:
 15 Q. That is tab 4. Let's make sure you are
 16 referring to that as tab 4.
 17 A. **Let me double check. Thank you very**
 18 **much. That clears that up.**
 19 Q. We are looking now at tab 4 of Exhibit
 20 2 which is part of your report?
 21 A. **Yes.**
 22 Q. You are referring to your observations
 23 that you made when you and Mr. Wilkinson went through
 24 the property and went through the basement of the
 25 Garry home, is that correct?

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 2 A. **That is correct. It's on page 4 of 19.**
 3 Q. You made some notations where you
 4 believe there were water stains at the base of the
 5 wall?
 6 A. **No. It was one to two feet out from**
 7 **the wall on the back side of the carpet. We peeled**
 8 **back the carpet. We looked along the exterior of the**
 9 **wall.**
 10 Q. That is the west wall, is it not, that
 11 you are referring to?
 12 A. **Yeah. That is the west, south and then**
 13 **a portion of the east wall. And the carpet tack**
 14 **strips at those locations were also rusted, indicating**
 15 **that there had been water coming in at sometime.**
 16 Q. Just in terms of scale and looking at
 17 it, there is some area along the northwest bedroom west
 18 wall that you found some staining, right?
 19 A. **That is correct, sir.**
 20 Q. Wasn't that staining right below one of
 21 the windows in the northwest bedroom?
 22 A. **The window, as I recall, and if we have**
 23 **any pictures we can do it later, as I recall the**
 24 **window is right around there.**
 25 Q. In any event, there is far greater

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degree, at least based on your observations, of staining in the southwest bedroom than in the northwest bedroom?

A. That is correct.

Q. Were there also windows in the southwest bedroom?

A. As I recall here on the west, about the middle of the west wall of the southwest bedroom and there is a window approximately in the middle of the southwest bedroom and it would be on the south end of it. If you would like, I can draw it in, although I am not precisely sure of the locations.

Q. If you could draw in the approximate locations of windows.

A. Approximate location is right there and I will put a W for window (indicating).

Q. Now, did you become aware at any time that the windows that are at both the northwest bedroom and the southwest bedroom were pressure tested to see if they leaked?

MR. CONLIN: That both of them were?

BY MR. STADLER:

Q. Windows in both rooms.

A. I recall there was one of them that was

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skipped, and I'm not sure which one. McGregor Pearce's report would have had that.

Q. You are referring to tab 6 of Exhibit 2, is that correct, McGregor Pearce report?

A. That is correct.

Q. We'll get into this in a little more detail in a bit, sir, but with respect to your opinion in this case as to Chaetomium and Stachybotrys in the home being primarily from the northwest and southwest bedrooms?

A. Yes, sir.

Q. And then you go and say that mold, Chaetomium and Stachybotrys in those two locations were from the leaking toilet, correct?

A. Yes, sir.

Q. And is it your testimony that none of the Stachybotrys or Chaetomium that was found in the air in those two bedrooms was from leaks from the windows?

MR. CONLIN: Are you asking him as if he has already answered that or is this a fresh question?

MR. STADLER: Fresh question.

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THE WITNESS: Fresh question. With respect to any sampling that has been done, I have not been appraised of any mold growth around those windows that has been Stachybotrys or Chaetomium. I understand there is some Penicillium and some other ones, but I haven't been appraised if there is Stachybotrys on that. So they do not appear at least to the best of my knowledge in all of the sampling that we have currently to contribute. If there is further sampling that indicates otherwise, then I am open to changing that opinion.

BY MR. STADLER:

Q. Aspergillus and Penicillium were types of mold found in those locations?

A. I'm not 100 percent sure. I know there was a possible location of that. Let's scratch that. I don't know for sure.

Q. We'll look at the McGregor report that I think speaks to that at some point.

A. Yes, please.

Q. But what I want to ask you now though is if there had been no Stachybotrys or Chaetomium in this home, would it be your opinion that this home is not contaminated?

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A. Throughout the course of this, throughout the whole course from let's say the start of ownership to present, I would say that would be incorrect.

Q. Because Aspergillus among other things and Penicillium have been found in various locations?

A. That is correct, sir.

Q. And those mold types were associated in your mind -- strike that.

With respect to those two mold types --

MR. CONLIN: Which ones?

MR. STADLER: Aspergillus and

Penicillium.

MR. CONLIN: Which subspecies of Aspergillus?

MR. STADLER: I would appreciate it if someone would let me finish my question before you make an objection. I am willing to clarify my question, but if you would let me finish it, I think it would be helpful for the report.

BY MR. STADLER:

Q. Sir, your report, when you talk in your report generally about Aspergillus and Penicillium, Aspergillus versicolor, I don't know how you tell that

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 2 in Latin, but that is the Aspergillus I am talking
 3 about, that is what you identified in this report,
 4 right?
 5 **A. That is correct, sir, yes.**
 6 Q. You also identified Penicillium?
 7 **A. That is correct.**
 8 Q. As to those types of mold as referred
 9 to in your report, you don't say they are primary
 10 sources of contamination, do you?
 11 **A. These two bedrooms?**
 12 Q. These two bedrooms. You don't conclude
 13 these two bedrooms are primary sources of those two
 14 mold types, do you?
 15 **A. I don't conclude they would be the sole**
 16 **source. I believe that would be the correct reading**
 17 **of my interpretation.**
 18 Q. As to those, you don't say those areas
 19 are primary and other areas are secondary, you say
 20 they are contributing?
 21 **A. Yeah, the two bedrooms contribute to**
 22 **those two particular molds.**
 23 Q. A lot of other areas in the basement
 24 that were affected by the sewer backup in July of 2002
 25 were also contributing to the mold in the home,

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 2 correct?
 3 **A. I believe -- well, let's see. I don't**
 4 **know if I can attribute exactly to it, but I would say**
 5 **there are other events that contributed to those**
 6 **particular organisms because they were found at**
 7 **locations other than the two bedrooms.**
 8 Q. That is what you say in your report?
 9 **A. That is exactly right, sir.**
 10 Q. If there had been no Stachybotrys and
 11 Chaetomium found in the home and you only had this
 12 Aspergillus and this Penicillium that you refer to,
 13 would you be able to state that the leaking toilet was
 14 a primary cause of the Aspergillus and Penicillium in
 15 the home?
 16 **A. I can't state that that is the primary.**
 17 **It is a contributor. But I couldn't state with as**
 18 **strong a position as I can with respect to Chaetomium.**
 19 **Do you need me to restate that? Because there are**
 20 **other locations where we found the growth in more**
 21 **significant amounts than the other ones are**
 22 **insignificant with respect to Chaetomium and**
 23 **Stachybotrys.**
 24 Q. Going back to Stachybotrys and
 25 Chaetomium and your conclusion that the northwest and

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 2 the southwest bedrooms were the primary source of
 3 those molds in the home, and that the leaking toilet
 4 was the cause of those mold types in those areas,
 5 correct, that is your opinion?
 6 **A. Yes, that is, sir, yes.**
 7 Q. And that opinion is based on your
 8 observations made about stains approximately a year,
 9 nine months after the Garrys left the home, correct,
 10 in March of 2003?
 11 MR. CONLIN: Solely on that basis?
 12 THE WITNESS: It's not solely on that
 13 basis.
 14 BY MR. STADLER:
 15 Q. Let me approach it another way. Is
 16 there anything that you can point to in terms of
 17 documentary evidence, information, that existed what
 18 the conditions were in the home that existed prior to
 19 your being there in March of 2003 that support your
 20 position that those carpet stains are due to the
 21 leaking toilet?
 22 **A. It was interesting in that the way --**
 23 **we spent a lot of time trying to figure out why the**
 24 **stains -- what could have caused the stains. We did a**
 25 **walk around the perimeter and everything else.**

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 2 Q. This was in March of 2003?
 3 **A. That is right, yes. We did a walk**
 4 **around the perimeter of the house. We looked at**
 5 **various sources and we looked at the staining, and the**
 6 **interesting part about the staining, for instance, if**
 7 **I thought that the staining in other cases where have**
 8 **had -- where the staining would have been due to a**
 9 **rain event, I would have expected, and let's say the**
 10 **leaking windows, I would have expected to see various**
 11 **different stain lines because the amount of rain**
 12 **coming in would be variable. I saw a very consistent**
 13 **single line which would be around without any angular**
 14 **rings, et cetera. It was very consistent. One stain**
 15 **line all the way around, slightly rusted, and it took**
 16 **on the color from the nails that were on the carpet**
 17 **tack strip and it had that slight rust staining all**
 18 **the way around it and continuous.**
 19 **The best explanation I can come up**
 20 **with, if someone can come up with a better one, I**
 21 **would be willing to listen, would be if you had a leak**
 22 **from a toilet and that was saturated from for a long**
 23 **period of time.**
 24 Q. What are you referring to when you say
 25 that you are going to have to be more specific?

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A. The carpet was saturated for a long period of time. That would have had a nice, well delineated line around the carpet along the perimeter.

Q. Are you saying the carpet was or was not saturated for a long period of time?

A. I would say the carpet would be saturated for some period of time, and the length of time would vary.

Q. Was that your conclusion?

MR. CONLIN: Could you let him finish, please.

BY MR. STADLER:

Q. I thought he had finished. Go ahead, sir.

A. I don't know the exact length of time, but it would be an event where you have water down here and that is where the liquid would have essentially ran along the perimeter and stopped there. The stain line went out further from the northwest corner than it did at any other location. The stain line on the carpet, just to be clear.

Q. At anywhere in your report does it note how long you believed the carpet had been saturated?

A. No. There is no specific line on the

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exact time.

Q. I'm not saying for exact time, sir.

MR. STADLER: Counsel, if you have an objection, make an objection.

MR. CONLIN: I am making an objection because I think the witness misspoke when he said that was the northwest corner.

THE WITNESS: Southwest corner. I apologize. The southwest corner.

BY MR. STADLER:

Q. So again, sir, you were there in March of 2003?

A. Yes.

Q. Six, seven, eight months after the Garrys left the home?

A. Right.

Q. And you observed carpet that was wet, is that what you are telling me?

A. No.

Q. You observed stains that you believe reflect the fact at some point the carpet in that corner or along the base of these walls was saturated, right?

A. Yes. There was water in that location.

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Q. For what period of time approximately based on your observation of these stains was that area wet?

A. I don't know.

Q. Can anyone that you are aware of based on what you know in the field of public health, industrial hygiene, make that determination?

A. No one that I know of could give you a precise time, sir.

Q. Could have been a month before, three months before, a year or two or three years before?

A. No one based on that observation at that time would know.

Q. Let me see if I am clear on this. When you did this inspection in March of 2003, did you know whether the leaking toilet had been repaired in 1999?

A. We are going back to that one, and I don't know the exact date when that toilet was repaired, sir.

Q. Would that fact be significant to you in your evaluation as to what the cause of that water stain was that you drew on this drawing, tab 2 of -- tab 1 of Exhibit 2, is that a significant fact?

MR. CONLIN: For purposes of what

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question?

MR. STADLER: For his opinion in this case.

MR. CONLIN: Which one?

MR. STADLER: The only one he has given, that is the leaking toilet was the cause of all of the water stains that appear along the walls that he has drawn, on the walls that appear on this drawing.

MR. CONLIN: The question is would the precise date of the toilet fix --

MR. STADLER: No. That is not the question, sir.

BY MR. STADLER:

Q. The question is: Would the fact that the toilet was repaired in 1999 be a significant fact in your assessment of that situation?

A. Let's see. Let me think through that.

MR. CONLIN: Essentially the question is assume --

MR. STADLER: Object to counsel rephrasing my question. If the witness doesn't understand the question, he can say so and I will try to rephrase it. If you have an objection, make the

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 2 objection. Tell me what it is that you find
 3 objectionable.
 4 MR. CONLIN: I object to the question.
 5 It's unwieldy, it's ambiguous, it's vague. You
 6 haven't clarified whether you are asking him to assume
 7 that the toilet was fixed in 1999. You can try to
 8 answer if you can.
 9 THE WITNESS: I don't know if the fix
 10 date has any relevance to it. I know at least from --
 11 I think everybody agrees at sometime or another the
 12 toilet leaked, and I know that the toilet leaked. So
 13 whether there was a repair done after the toilet
 14 leaked that worked, that doesn't seem to have any
 15 bearing on this.
 16 BY MR. STADLER:
 17 Q. If the toilet had been repaired in 1999
 18 and there was no leak after 1999, it's still your
 19 opinion that Stachybotrys and Chaetomium could have
 20 been growing, could have been present in those walls
 21 of the southwest bedroom and the northwest bedroom as
 22 you have drawn it on this diagram, is that your
 23 testimony?
 24 MR. CONLIN: I object to the form of
 25 the question. It asks two questions; one, assume it

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 2 was present, and another, assume it was growing.
 3 Those are two different questions with two different
 4 answers and I object to it on that ground, whether it
 5 was present and sitting there as a dead colony, versus
 6 whether it was there actively growing.
 7 THE WITNESS: I think you are asking
 8 me --
 9 BY MR. STADLER:
 10 Q. Let me back up a bit.
 11 A. I have a hard time.
 12 Q. Let me back up to make it simple. We
 13 have no evidence whatsoever in this case, do we, that
 14 there was any mold either dead or growing in this home
 15 before July 29th, 2002, correct? It's pure
 16 speculation whether there was mold present in the home
 17 prior to that date, correct?
 18 A. I don't know.
 19 Q. Fair enough.
 20 A. I don't know.
 21 Q. The only thing you know is some tests
 22 were done in late July of 2002, right?
 23 A. I know that there was a toilet leak, or
 24 people have told me there was a toilet leak, and then
 25 I have seen the test results at that time, yes, sir.

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 2 Q. In late July of 2002?
 3 A. That is correct, sir.
 4 Q. You know before then there was a sewer
 5 backup in areas of the home including the northwest
 6 bedroom, right?
 7 A. Yes. We have established that.
 8 Q. And you also know from other
 9 information in your reports or your report that the
 10 windows were tested at some point and leaked in one or
 11 two of these bedrooms?
 12 A. Yes, that is correct, sir.
 13 Q. You also said earlier that the sampling
 14 and testing done of samples taken is highly variable,
 15 correct?
 16 A. Yes, sir, that is what I said.
 17 Q. Just so I'm clear on this, as to the
 18 Aspergillus species that you referred to and the
 19 Penicillium in the home, you cannot give an opinion as
 20 to which, if any, of these bedrooms was a primary or
 21 secondary source in causing mold in the home?
 22 A. I can give you an opinion about
 23 secondary. I can't give you an opinion specifically
 24 about the percentage contribution of that.
 25 Q. So you are referring to those

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 2 Aspergillus and Penicillium and you are saying these
 3 bedrooms were at least a secondary source?
 4 A. Yes.
 5 Q. And there were other secondary sources,
 6 right?
 7 A. That is correct, yes.
 8 Q. Was there a primary source?
 9 A. I don't think that we could state there
 10 was a primary source with respect to those two. Those
 11 two areas have consistently tested high for these
 12 organisms, but they have also been present in elevated
 13 areas, other portions of the building, and with
 14 respect to Penicillium, one outdoor air sample was as
 15 high as the interior sample.
 16 Q. If not higher?
 17 A. Yeah. So with respect to Penicillium,
 18 that is why I broaden that out. There is a more
 19 cosmopolitan distribution of that particular organism
 20 to be to air samples.
 21 Q. I am glad you mentioned the outside
 22 air. Among the many sources we talked about today,
 23 the sewer backups, the window water intrusion, water
 24 from a light fixture, there is also outdoor air
 25 source?

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A. That is correct.

Q. And tests have been done and they are reflected in your report at various times that Penicillium and Aspergillus levels in the outside air were pretty high at various times?

A. The Penicillium was higher than the inside. The Aspergillus versicolor, as I recall, was not, outdoor level was not higher than indoor levels.

Q. But in any event, isn't it fair to say and I hope to in the next few minutes go into the reporting that was done by GeoTek in July of 2002, but isn't it fair that the Aspergillus and Penicillium found in the air tested in the northwest bedroom and other areas were substantially higher than the air tested in the southwest bedroom?

A. That is correct.

Q. Let me, if we can, go back to your report and the tabs, the documents in the tabs that are appended to your report. Is that the entirety of your opinion for this case, or opinions in this case, is there anything else that reflects your opinions that you are going to give in this case?

A. At this time I don't think there is anything else.

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Q. Your report is dated I think April 19th, 2004?

A. Let's just double check that. I think that is correct.

Q. So you have your report and we have these eight documents that have been tabbed 1 through 8. Does this contain all of the opinions you are going to give in this case, to the best of your knowledge today?

A. To the best of my knowledge today, that would be accurate, yes, sir.

Q. And you haven't revised your opinion or opinions in any way, shape or form since you signed this report on April 19, 2004, correct?

A. No, I haven't, sir.

Q. And you haven't been asked to look at anything in particular with respect to your opinions after you issued this report, correct, to consult with anything else? I know we marked a couple of documents today you said you reviewed?

A. I can't recall specifically if I was asked to review the one report put out by the defendant's air sample person. I can't recall if I was specifically asked.

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Q. The URS report?

A. The URS report. I believe I may have been asked. I never did comment on it. I glanced briefly at it, but I haven't commented on that in writing or verbally, as I recall.

Q. And there is nothing in that report, that URS report, that caused you to change in any way or revise your opinion or opinions in this case, correct?

A. No, sir.

Q. That is correct?

A. Yeah, that is correct.

Q. I asked you earlier about your resume here, your CV, and you indicated it is an accurate reflection of your employment history?

A. Yes.

Q. Is it an accurate statement of your education and professional accomplishments as far as you know?

A. As of the date of the document, I believe it is. There may have been one or two omissions with respect to some training or some presentation or poster sessions, but to the best of my recollection this is what I could compile.

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Q. I believe in your disclosure you stated that you have never testified at trial in connection with -- in the last four years anyway, you haven't testified at trial?

A. That is incorrect. My disclosure had two cases.

Q. Let me back up. Your disclosure refers to two cases in the last four years. I understood those to be depositions?

A. The Woodroffe versus University of Minnesota, that was actually a workers comp trial. The other one was a deposition.

Q. The Beattie case was a deposition?

A. The Beattie case was a deposition.

Q. Just while we are on that, the Woodroffe case was a workers compensation case, had nothing to do with insurance coverage as far as you know?

A. Workers comp is usually insurance.

Q. Let me back up. Did it have anything to do with homeowners insurance coverage?

A. No, it did not.

Q. Did it have anything to do with mold?

A. Yes, it did, in small ways.

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Q. In what small way, microscopically or small way?

A. In the value of the case there was a small amount of mold sampling done. The indoor counts were much lower than -- we couldn't find any interior source on mold samples. There was a small amount of elevated fungal count found in some duct work, but it didn't seem to be germane to the particular case.

Q. In any event, that wasn't a claim for property damage?

A. That is correct, sir.

Q. The Beattie case, what did that involve?

A. That was a response to an e-mail that I got that said if there is water damage in a lower level space and they look at the outside of the sheetrock, is that an accurate determination of whether fungal growth may occur in it. And I replied to her, no, occasionally the fungal growth will occur on the back side of the sheetrock. That was roughly the extent of it, and then I was deposed based on that. As it turned out, it was a case of where they had a modular home and they placed it between three and six inches off center on the slab and there was

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water that came in, but I didn't know that at the time.

Q. That case had nothing to do as far as you are aware with homeowners insurance coverage, correct?

A. I don't think so. I think they were suing the installer of the home and the person that constructed the home. I don't think it was a homeowners insurance thing, but there may be some other aspects that I don't know about on that one.

Q. In the last four years you have only testified twice either by deposition or trial, correct?

A. Correct. Do you include pretrial ones that never go to trial?

Q. Talking about depositions. Yes, any case in which you have been deposed as a lay or expert witness.

A. Well, I will tell you what I did and we'll see if it covers it. There was a pretrial motion with respect to fungal growth in a house that I did after I was asked to submit this report of that.

Q. Referring to your report in this case, after you submitted this report?

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A. After I submitted that, yes. And we discussed whether the case should be thrown out or not, and it ended up being thrown out.

Q. Anything else, and I am going back more than four years, any other case where mold was an issue where you testified at deposition or trial?

A. There was -- this was at an arbitration hearing. Is that included or not, a homeowners arbitration hearing?

Q. Was it involving mold?

A. Yes, it was.

Q. Just generally what was your testimony in that case, what issue did it deal with?

A. In this case the homeowner had a transite duct system, and the water discharge from the sump pump wasn't working appropriately because the exterior drain tile was crushed and there was a significant amount of water in the home, and there was also sewer water in the ventilation system. We testified about some fungal growth that was occurring on some of the material in the spaces where they had their children in the lower level basement.

Q. Did you have to testify about the source of mold in that case, was that an issue in the

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case?

A. Yeah. Because I identified specific sources of mold in that house. It was lower level, it was on the sheetrock and on a briefcase and underneath the garage on a wall.

Q. Did you, as you have in this case at least with respect to Chaetomium and Stachybotrys, have to differentiate between primary and secondary sources of mold?

A. I was not asked to do that in that case. I was just asked to identify the areas where the mold was.

Q. Other than this case, have you ever in any case testified about whether mold, the source of mold found was either primary or secondary?

A. Not in any other legal cases, sir.

Q. Do you know of any person, person you look at as an expert or colleague in the field who has ever testified in any case that there was a primary or secondary source for mold?

A. Yes, I do.

Q. Who is that?

A. My colleague Andy Streifel from the Department of Environmental Health and Safety.

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Q. Anybody else?

A. Phil Morrie, and I am not sure, he keeps changing companies, but he is a CIH. Let's see, who else? Chuck Lane from Environmental Process, Inc., Arif Quaraishi from the Institute of Environmental Assessment, and then some of his employees at that organization. They have had to do a lot of legal cases with respect to identifying where fungal growth has occurred.

Q. My question is not where it is occurred, but as to multiple sources of mold where you have a similar situation where there is water intrusion in different locations and different events that they have testified that mold found in the air or even visible mold that was tested in bulk sampling, that they testified there was a primary versus a secondary source of the mold?

A. Yeah, I believe so.

Q. Is there any textbook or any kind of literature that refers to that type of differentiation between primary and secondary sources of mold in an indoor space?

MR. CONLIN: Using just those terms?

MR. STADLER: I am using the terms the

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witness used in his report.

MR. CONLIN: I understand. I am asking whether you are using those terms specifically or whether they are a generic marker for the concept in general.

BY MR. STADLER:

Q. The terms you used in your report, are they generic terms or terms of art in the field or just thought something that was a good word to use?

A. It was the best way I could describe to at least help lay out the situation with respect to this particular case. In other words, what is the -- which one -- I could have used which location is the most significant contributor, which location, or in which one is a contributor but not the specific major contributor. I could have used those terms. I don't think they are particularly words used as specific terms within the trade.

Q. So there are no specific terms in the trade in order to define this type of situation, are there?

A. I don't know if there are or not, sir.

Q. Okay. Even using your term significant contributor, your testimony as to the type of

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Aspergillus that we saw and Penicillium, you are not stating that the southwest bedroom and the northwest bedroom were significant contributors to that?

A. I would say they are significant, but not the -- I wouldn't say they are insignificant. They are significant, but there are other sources for it.

Q. The other sources are also significant, are they not?

A. That is correct. I am not able to put them in hierarchal description.

Q. They are of unpreferentiated importance?

A. Correct, sir.

Q. With other sources being the sewer backups and the water coming through the windows, right?

A. There are other locations where those organisms are identified, yes, sir.

Q. You can't tell me in terms of a percentage in the home following any particular air sampling that was done what percentage of Aspergillus or Penicillium was due to leaking toilet or other sources?

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A. Those two, I can't.

Q. As to Stachybotrys and Chaetomium, you believe in any given air sampling that was done, finding those spores in the air in the home, that 95 percent of those spores were attributable to a leaking toilet?

MR. CONLIN: I think he said 90 percent.

THE WITNESS: I did not say 95. I said roughly 90.

BY MR. STADLER:

Q. I apologize for that 5 percent difference. If you think that is significant.

MR. CONLIN: Be fair to the witness.

We clarify and then you make some dig on the witness.

MR. STADLER: It was not meant to be a dig on you, sir. It was meant to be humorous.

MR. CONLIN: It was not, not given the course of the way you have treated this witness.

BY MR. STADLER:

Q. Sir, do you feel you have been mistreated in any way during the deposition?

A. I don't really have an opinion on that, sir.

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Q. Okay, fine. I will let you finish your answer.

A. I think the words you parsed with respect to air sample, I would tend to -- the way I believe I have characterized it is those particular areas had significant presence or at least sources of those particular spores, and that occasionally those spores may have traveled outside of that area, and in one case, in the case of Chaetomium there are two localized sources of growth, but with respect to the total volume of growth on surfaces in that building, those, based on all of the information we have to date, are 90 percent.

Q. Have you ever confronted any mold issues in your own home or office environment?

A. Yes, at home and then it's my primary responsibility at the University of Minnesota.

Q. At home have you encountered mold you had to deal with?

A. Yes, I have.

Q. Significant mold?

A. Minor. And then one where I addressed a water leak appropriately and didn't get the mold growth.

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Q. There is a possibility mold is growing in the home?

A. This is in the garage.

Q. This is mold in your residence at some point?

A. There may be. I don't know.

Q. Any relatives or friends ever experience any problems with mold in their home as far as you know?

A. Let's see. Relatives and friends, yes.

Q. As reported to you?

A. Yes.

Q. Have you given them advice as to what they should do in that context?

A. Yes.

Q. What advice have you given them generally? I don't want to get into every specific instance. I don't want you to identify your relatives or friends. I just want to know what type of advice you give them.

MR. CONLIN: I object to the form of the question. It's over broad. Try to answer if you can.

THE WITNESS: It's very specific to the

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Q. When you say in the first instance in terms of minor mold, did you do air testing?

A. Let's see. Actually I did air testing actually in the second case to make sure I got it. And in the first case, no, it was mildew because we had just gotten the house. We didn't dehumidify or didn't have the air conditioning on, so I did surface wipes to remove surface mildew. It wasn't at that time physically growing on a surface where it was latched on. It was just light growth.

Q. It appears you have never had any confirmed mold in your home?

A. Well, not that I know of for sure. I have a couple of leaks that I have to attend to, but I haven't had any -- I guess I wouldn't say that. Growth on -- confirmed growth on let's say sheetrock, I have some water stains that may have some growth or not, but I have to get it abated.

Q. You did that?

A. I have not.

Q. And you haven't done that?

A. Not yet.

Q. You are still living in the home?

A. Yes.

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circumstance. I essentially attempt to have them identify the source of the water, get the leak stopped, have the abatement done in an appropriate fashion so that they don't spread the spores around.

BY MR. STADLER:

Q. Any of those instances where you became aware they confirmed mold present in their home, either spores or active growth?

A. Yes.

Q. Was any of those instances significant in your view in terms of elevated levels of mold?

A. I am trying to think. You asked particularly friends and family, and I am trying to think if I have done specific airborne testing with friends and family. I have done a lot of other ones, but not with -- I don't know if I have done any specific ones with friends or family. I can't recall, sir.

Q. Are you aware of any of those instances though where your friends or family may have had mold growth where they abandoned the home because of the mold?

A. Not friends or family. For consulting, yes.

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Q. None of your friends or relatives?

A. **I have to think through it. Let's see.****Not completely abandoned. They have vacated spaces.****No, none of them have abandoned.**

Q. You are currently a public health specialist, correct?

A. **That is correct.**

Q. You have a masters of science in public health?

A. **Master of science in I believe it's environmental health and safety.**

Q. You don't have a PhD, is that correct?

A. **That is correct, sir.**

Q. You are not a medical doctor?

A. **No, I am not a medical doctor.**

Q. And you are not a toxicologist?

A. **I am not a toxicologist.**

Q. And you are not a microbiologist?

A. **I am a microbiologist but not a microbiologist.**

Q. When you say microbiologist, what is that?

A. **A person who studies fungi.**

Q. Do you have a masters in that?

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NEIL G. CARLSON, MS, CIHA. **I do not have a masters. I have extensive coursework in it and I also teach classes in it.**

Q. Is there a licensing process to become a microbiologist?

A. **No, there isn't.**

Q. You don't have a license in that field?

A. **No. We participate in the EMPAT program with the American Industrial Hygiene Association, and our lab at the University, and I am part of that, are tested for proficiency with respect to fungal identification, and as far as we have been doing that for several years and we are in the passing category with it. I don't say we have done everything correct, but we have done the passing capacity.**

Q. The lab you refer to at the University, is that certified to do testing for mold?

A. **That is not, does not have an M lab certification. It is part of the EMPAT program, but it is not a certified lab.**

MR. CONLIN: Is EMPAT --

THE WITNESS: E-M-P-A-T. That is my best recollection on that.

BY MR. STADLER:

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Q. M lab is the formal entity that certifies?

A. **No. That is the American Industrial Hygiene Association.**

Q. What is M lab, have you heard that term before?

A. **I have seen the term, but I don't recall the specific part of that.**

Q. So with respect to the air sampling that was done after you became involved in this case, your University lab was not involved in analyzing those, correct?

A. **That is correct.**

Q. Why not?

A. **I was not asked to do it.**

Q. You or the Garrys used a different laboratory than the one at the University of Minnesota?

A. **It was GeoTek and a couple of other ones. In fact, GeoTek used the same lab at least in one case that your -- the defendant's attorney did.**

Q. That wasn't my question, sir. I am trying to get through this as quickly as I can.

A. **Go ahead.**

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Q. My question was very simple. The University of Minnesota lab that you have talked about as having gone through a passing stage was not used to analyze any of the samples in this case?

A. **Correct, sir.**

Q. In the course of your work as a public health specialist and working in this lab at the University of Minnesota, have you analyzed bulk or air samples for the presence of mold?

A. **Yes.**

Q. Is there any reason why you weren't involved in testing or analyzing any of the samples in this case?

A. **I wasn't asked to.**

Q. You are relying on the results and analysis of other entities, correct?

A. **Yes. I was relying on those labs, yes.**

Q. Have you ever worked in the construction industry or trades?

A. **Not specifically. I painted houses, but I have not been involved or employed as a construction worker.**

Q. For example, have you ever installed rugs or carpets?

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1 NEIL G. CARLSON, MS, CIH
 2 **A. Outside of my own home?**
 3 Q. Right. Separately.
 4 **A. No, I haven't installed rugs or carpets**
 5 **outside of my home.**
 6 Q. Have you ever removed and replaced
 7 sheetrock?
 8 MR. CONLIN: The question is outside of
 9 his home?
 10 MR. STADLER: Yes.
 11 THE WITNESS: Outside of my home, no.
 12 BY MR. STADLER:
 13 Q. Do you have any experience in
 14 construction building codes?
 15 **A. Yes, some. I am -- one of my**
 16 **responsibilities is to review plans with respect to**
 17 **buildings at the University of Minnesota.**
 18 Q. Construction or renovation of buildings
 19 there?
 20 **A. That is correct, yes, sir.**
 21 Q. Have you ever at the University of
 22 Minnesota been involved in trying to assess whether
 23 mold is present in any of the buildings?
 24 **A. Yes.**
 25 Q. In conjunction with that work, did you

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1 NEIL G. CARLSON, MS, CIH
 2 ever have to determine what the source of the mold
 3 was?
 4 **A. Yes.**
 5 Q. Did you ever have to determine whether
 6 there was a primary versus a secondary source?
 7 **A. Yes.**
 8 Q. Did you ever have an opportunity to
 9 make that determination based on the staining of
 10 carpet or the staining of baseboard?
 11 **A. Yes.**
 12 Q. In how many instances did you do that?
 13 **A. I'm going to give you approximate**
 14 **numbers because I have done a lot. At least 500.**
 15 Q. In the course of that work did you ever
 16 have to determine how long, for what period of time an
 17 area had been wet where you noted that there were
 18 stains on carpet and/or sheetrock?
 19 **A. Yes. We had to do that, and the basic**
 20 **determination comes from several sources, but, yeah.**
 21 Q. What are those sources?
 22 **A. The sources would be moisture media**
 23 **readings, the history of the space, the types of fungi**
 24 **present.**
 25 Q. Are you familiar with the Nova entity?

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1 NEIL G. CARLSON, MS, CIH
 2 **A. Tangentially I have visited their**
 3 **office at one time a long time ago. I've got to think**
 4 **back. I don't know if I have done any particular**
 5 **fungal identification for that organization.**
 6 Q. They did an investigation of the Garrys
 7 home in September of 2002, correct?
 8 **A. Yes.**
 9 Q. I am going to show you their report
 10 that you previously referred to, and I think it's tab
 11 2 of the report. At least that is where I just pulled
 12 it from. We are going to talk about that. If you
 13 could go to that, I think it's the fourth or fifth
 14 page in. Get into the investigation summary and maybe
 15 five or six pages in if you see that subparagraph 2.0.
 16 There it is.
 17 **A. Thank you.**
 18 Q. They apparently, based on this report
 19 -- and I believe you have at some point reviewed this
 20 in order to come to your opinions, correct?
 21 **A. Yes.**
 22 Q. They went in and investigated various
 23 areas of the home including the southwest bedroom and
 24 the northwest bedroom, correct?
 25 **A. Yes.**

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1 **NEIL G. CARLSON, MS, CIH**
 2 Q. They concluded, at least as I see on
 3 the bottom of this page, "Nova did not identify any
 4 additional areas of water damage or visible mold
 5 growth." The only areas, if you see the paragraph
 6 before that, they found mold growth or water damage
 7 was in the basement garage stairwell leading into the
 8 garage and lower sheetrock wall in the laundry room.
 9 Do you see that paragraph 3 on the bottom?
 10 **A. Let's go back. Hold on. Are you on a**
 11 **different page? Paragraph 3 doesn't talk about --**
 12 Q. I'm sorry, it's the third paragraph
 13 from the bottom.
 14 **A. It starts with, "Nova continued"?**
 15 Q. "Nova continued," yes.
 16 **A. Okay. Yes, I see that.**
 17 Q. And then the next paragraph notes they
 18 did some destructive sampling in those areas including
 19 the areas I mentioned, the southwest and northwest
 20 bedroom?
 21 **A. Main level, master, lower, yeah.**
 22 Q. And the two bedrooms we have been
 23 talking about that you say are primary sources for
 24 Stachybotrys and Chaetomium, correct?
 25 **A. That is correct.**

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Q. In September of 2002 they did a boroscope of the wall surfaces in some of these areas, do you see that, in that same paragraph?

A. Yes.

Q. They used a boroscope. What is that?

A. That is a device that is in some ways usually a method for going inside and looking at the back side of a wall cavity without ripping out the whole wall.

Q. As part of that process can you determine whether there is either water present or mold growth?

A. It's a helpful tool. I don't think you can definitively determine it from that.

Q. But they did that process here, correct?

A. That is correct.

Q. Did you ever do that process in any of your work at the Garry home, use a boroscope?

A. I don't recall us using a boroscope.

Q. Why not?

A. We chose to physically remove and examine things. In other words, underneath the toilet we chose to physically remove the sheetrock and

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the events and you were in there six or seven or eight months after, correct?

A. That is correct.

Q. Now, if I could, in the middle of this document -- towards the end of the document there is a daily log and it doesn't have a page number. Actually it says page 1 of 2. It's in the back of their report, section of daily log. If you can find that. I think it might be right before the photographs. It's right before some of the sample chain of custody forms. It's back further.

A. Is it just before the -- this is a long report. I'm on page 18 now. Where do I need to go?

Q. It's a log, it's an attachment, it's an appendix. It's after you get passed the schematic.

A. Is it prior to photographs or after photographs?

Q. It's right before photographs, right before chain of custody sheets.

A. There is a daily log. Page 1 of 2, is that the page you want me to be on?

Q. Yes. There is a reference to 9/4/2002, 12:10 P.M., do you see that, Nova investigates the master bedroom toilet leak area?

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examine it rather than use a boroscope. You've got a wider field of vision.

Q. I am talking about primarily the northwest bedroom, the southwest bedroom is where they had the toilet?

A. Right.

Q. Why didn't you use a boroscope in the northwest bedroom?

A. At that time we didn't, there was wanes coating on that wall and there was some -- and that is the wanes coating that was on the northwest bedroom wall. I don't know if we had a boroscope along, and we were reluctant to rip that apart.

Q. But in any event, Nova did some work in those areas and found they did not identify any additional areas of water damage or visible mold growth, do you see that?

A. Yes, I do.

Q. Was that important information to you to take into account in coming to your opinions in this case?

A. It didn't have a strong bearing with respect to my central conclusions.

Q. They were in there a month or two after

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A. Yes.

Q. That is the area you did some work in, right?

A. Yes. I am just asking for clarification. It looks like they are looking at it from the top of the toilet area.

Q. It refers to the plywood subfloor, does it not?

A. Yeah, they are looking --

Q. Ceramic tile, plywood and plywood sub floor?

A. Yes. They are looking down from the master bedroom, as I understand it, master bedroom, bath.

Q. They drilled some holes and investigated through a boroscope and they concluded there was no mold or water damage in that area, do you see that?

A. Yes, I do.

Q. They did some further drilling and again didn't find any evidence of mold contamination?

A. Yes.

Q. Are you aware of this log, do you recall seeing this log before at some point?

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A. I don't recall seeing this specific log or reviewing this specific log report, although it was in the report that I sent out. I don't recall reviewing that specific paragraph.

Q. Did you have this daily log at the time you went in there in March of 2003 to do your own investigation, did you have this report?

A. Yes. This was in September of --

Q. This was in September of 2002.

A. I don't believe we took it along. I believe I was aware of the full extent of this report. What I focused on primarily on this report was looking at the sample results from that report and then I looked at the subsequent example reports from GeoTek.

Q. You were also interested at that time when you were doing your own investigation to try to determine whether the leaking toilet was the result of any water damage that resulted in mold, right?

A. Correct.

Q. This type of investigation Nova did bears on that, does it not?

A. In some respects. It was a limited inspection.

Q. This inspection was done by Nova, that

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was for the Garrys as far as you understood it?

A. As far as I understood it, the Garrys had Nova come out.

Q. The Garrys retained GeoTek?

A. As far as I know, yes.

Q. Go to the next page. At the top it refers to 12:30 P.M. Nova removed some baseboard in the closet. I'm going to talk about the northwest bedroom because that is the last bedroom. It says Nova proceeds to the northwest bedroom. There is a reference there to work Nova did there to try to see if there was mold contamination. Do you see that?

A. I want to be clear. I'm not sure exactly where they are drilling. Let's take a look at this. Are they drilling on the exterior wall at that point?

Q. This is a good point you are making. When you got this report and you reviewed it, you had questions because you just have a question right here about this. Did you get on the phone and call Nova and ask what they did?

MR. CONLIN: I object to the form of the question. It's based on the phrase do you. I assume you are asking what he would have done.

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BY MR. STADLER:

Q. After you reviewed this Nova report -- strike that.

Did you ever call Nova at any time to ask them questions concerning this report?

A. I didn't call them. We had a meeting with Nova and GeoTek, and we were trying to figure out sampling strategies as we moved forward, and we were trying to figure out who should continue as the primary person sampling. I didn't discuss this particular spot. If I understand the location, correct me on the 12/30, I would not have expected growth at that particular location because the sheetrock was gapped above the wall, in other words, gapped at the base of the wall.

Q. So is it your testimony that there was no mold contamination anywhere in the sheetrock in the northwest bedroom?

A. I don't know about that. When we did examination of the sheetrock along the -- I have to get the directions right, along the west wall in the areas that had not been -- there is a section of it that had been removed and replaced.

Q. You are talking about the southwest

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bedroom?

A. Southwest bedroom.

Q. I'm talking about the northwest bedroom.

A. I'm talking about both of them. The base of the sheetrock with respect to the floor, there was a gap, which if there was a small amount of water that got under the floor, in other words, so a floor that was less than say a half inch deep, the water would not have wicked up the sheetrock. We could still see the staining on the carpet tack strip but the water had not migrated up because that is a good solid construction technique.

Q. So was that water in that location from a leaking toilet or from flooding?

MR. CONLIN: Which water, Counsel?

MR. STADLER: The one he just referred to.

MR. CONLIN: He was posing a hypothetical question about the differences between what you would see on sheetrock, a general answer about what you would see on sheetrock and what you would see on carpet. If you are asking a specific question about what he observed, you need to clarify.

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1 NEIL G. CARLSON, MS, CIH
 2 BY MR. STADLER:
 3 Q. I am asking you based on this note
 4 here.
 5 MR. CONLIN: Which note?
 6 THE WITNESS: The 12/30 note?
 7 BY MR. STADLER:
 8 Q. 12/30 note, page 2 of 2, daily log,
 9 September 4, 2002, what you understood when you read
 10 this.
 11 **A. I read this particular part for the**
 12 **first time today.**
 13 Q. So when you came to your opinion you
 14 didn't take this into account, this information, is
 15 that what you are saying?
 16 **A. Those two pieces were not items that I**
 17 **looked at. I looked at the sampling report. I didn't**
 18 **look at the daily log when I was putting together this**
 19 **report.**
 20 Q. You didn't look at the Nova daily log?
 21 **A. No, I did not.**
 22 Q. Is there such thing as a certified
 23 microbiologist, certified or licensed microbiologist?
 24 **A. I don't know. I don't think so.**
 25 Q. You are not a certified microbiologist?

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1 NEIL G. CARLSON, MS, CIH
 2 **A. I am not a microbiologist.**
 3 Q. But you are a certified industrial
 4 hygienist?
 5 **A. That is correct.**
 6 Q. As part of that work are you
 7 experienced to identify mold in samples, mold types in
 8 samples, air or bulk samples?
 9 **A. As part of my expertise, I am. It's**
 10 **not necessarily a requirement for that, but I am.**
 11 Q. And in conjunction with your work for
 12 the University of Minnesota, do you look at air and
 13 bulk samples for the presence of mold?
 14 **A. Yes, I do a lot.**
 15 Q. You do so for other entities?
 16 **A. That is correct, yes.**
 17 Q. As part of your consulting work?
 18 **A. Yes, sir.**
 19 Q. You mentioned the company you have?
 20 **A. N.G. Carlson Analytical, Inc.**
 21 Q. How long has that been in business?
 22 **A. I don't recall the specific date of**
 23 **incorporation. It may be on my resume. It has been**
 24 **for more than five years.**
 25 Q. Approximately how many employees do you

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1 NEIL G. CARLSON, MS, CIH
 2 have?
 3 **A. It's a S corp, so two.**
 4 Q. What is your approximate annual revenue
 5 for the work you do for that entity?
 6 **A. It varies greatly. I think it has been**
 7 **upwards of 50,000 and in low years it's been about**
 8 **5,000.**
 9 Q. Your CV says you have taken some
 10 graduate courses in mycology and medical microbiology?
 11 **A. That is correct.**
 12 Q. Have you taken more than one course in
 13 those areas?
 14 **A. I have taken several in mycology, plus**
 15 **additional conference work because the courses weren't**
 16 **available at the University, so I took a course on --**
 17 **it's a course offered through, I don't recall the**
 18 **exact piece. It's in the resume. A course on**
 19 **identification of Penicillium and Aspergillus, a**
 20 **course on Penicillium, a course on identifying mold**
 21 **organisms that was in Ottawa, Canada, taught by the**
 22 **bureau of slemacultures. I think I have it in here**
 23 **because that is a tough one to spell out. For the two**
 24 **years I have taught for the center of public outreach**
 25 **for mold identification for people that are interested**

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1 NEIL G. CARLSON, MS, CIH
 2 in it. And that is a branch of the school of public
 3 health.
 4 Q. I note that you also have written
 5 several papers, correct, have had several
 6 publications?
 7 **A. Yes, I have.**
 8 Q. It looks like you have four
 9 publications from your CV?
 10 **A. Yes, that is correct.**
 11 Q. Are those all peer reviewed
 12 publications?
 13 **A. Let me take a look at it. I want to be**
 14 **sure. I think those that are listed are.**
 15 Q. There are only four publications you
 16 have on your CV?
 17 **A. That is correct. I want to be sure**
 18 **they are peer reviewed as well. I want to be sure**
 19 **they are accurate. Which page of the CV?**
 20 Q. I think it's page 3 or 4.
 21 **A. I'm sorry. There. Publications. The**
 22 **first one is peer reviewed. The second one was not**
 23 **peer reviewed. The third one is peer reviewed. The**
 24 **fourth one is not peer reviewed. So two peer reviewed**
 25 **publications, and there is actually another one that**

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should be published that is not there. And I don't know if I put it as a poster session or not. There is another article on a peer reviewed one on anatomy of a nonviable fungal problem. That is under the poster session level. That should be listed as a peer reviewed publication as well.

Q. From what you just said, that is your fifth publication?

A. Yes.

Q. It appears to be on its face the only one that relates directly to mold. Can you correct me if I am mistaken in that regard? You have one referring to managing water infiltration in buildings, but I don't know what that means.

A. Mold is a critical component of that one.

Q. Other than that one and other than this anatomy of a nonviable fungal problem paper, of these other publications do they have anything to do with mold?

A. Any of the other peer reviewed publications?

Q. Any of the other three. We have five total. The managing water infiltration in buildings?

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A. That is correct, it was in the public risk.

Q. So the others don't relate to mold?

A. Yeah. The anatomy of the nonviable fungal problem would be the primary one.

Q. Just quickly if I could, do any of these publications or poster sessions or paper presentations, do they discuss how one goes about determining primary versus secondary sources for mold in a building, not whether mold is present, not what the health effects of mold are, but determining primary or secondary sources for mold?

A. Let me see. I think it was dealt with -- are you talking in total or including poster sessions or not?

Q. Let's start in total.

A. All right. In total. Let's go back here. Poster session assessment methods for mold remediation dealt with that.

Q. Where you mentioned specifically primary versus secondary?

A. I can't recall if that specific term was used.

Q. That is what I'm asking, the terms you

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are using in this report here in this case.

A. The terms were particular to this report and -- I don't know if I ever used those specific terms. I have used other terms that are paraphrases of those. So I don't know if you would find anything that uses those specific, but I used paraphrases.

Q. Why in this report did you not use the paraphrases but used the terms primary and secondary?

A. It fit this particular case.

Q. This is a unique case?

A. No. It just fit this particular -- with respect to this particular analysis, that was the most appropriate terms.

MR. CONLIN: Could we have a short break?

(Recess taken.)

BY MR. STADLER:

Q. Again, in going over all your poster presentations, paper presentations and other things, you don't have a memory of using those particular terms in any of those matters?

A. I think an analogous term like sources of fungal growth, I would say your primary sources of

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fungal growth, half of the indoor air related ones would be associated with that.

Q. I'm not asking if they are associated.

I am asking if you used the terminology primary and secondary sources when there are -- if you used those particular terms in any of these presentations or papers as you have used them here in this case?

MR. CONLIN: And he has answered that question.

MR. STADLER: I just want to be clear if he didn't change it after the break.

THE WITNESS: You used the term -- with respect to presentations, I have used those terms or something very similar.

BY MR. STADLER:

Q. When you say presentations, these are not in writing, these are presentations, these are things you gave orally?

A. Yeah, I have got copies of Power Point presentations with respect to dealing with mold problems in buildings and how to address them, how to find sources, how to identify the organisms where they are, how to use an air sample to determine where the

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source might be. In other words, if you have Stachybotrys, then you look for water damaged sheetrock; if you have Chaetomium, you look for a cellular-based material that has fungal growth.

Q. I know you talked about finding the source. If you have any Power Points on this, I would like to see copies of them where you have used the term secondary in terms of differentiating between multiple sources of mold that might be found in an indoor environment. If you have done so and can bring me copies, I would appreciate that.

A. I will review that.

Q. Thank you, sir. You have also given presentations also on flooding strategies for cleaning and drying?

A. Yes.

Q. In a situation like the Garrys where they have sewer backups and flooding, that is always going to be a problem in terms of mold?

A. Almost always depending on the surfaces that are impacted.

Q. Based on the testing done here, both bulk and air sampling, there was a mold problem in the basement due to a backup at least in part, correct?

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MR. CONLIN: At what point in time?

MR. STADLER: In any time he was on the premises evaluating whether a mold problem existed.

THE WITNESS: There may have been, yes.
BY MR. STADLER:

Q. You also gave a presentation titled Mold Science Versus Speculation. Do you see that?

A. Yes, I do.

Q. What is the speculation you are referring to there?

A. That one was a panel discussion. That was 2002. I am trying to recall what the speculation part was.

MR. CONLIN: Is your question assuming that he titled the program --

MR. STADLER: My question was what it is. If he doesn't understand the question --

THE WITNESS: No, I understand the question. I am trying to recall what particular part was related to the speculation in that speech. If you want to come back to it, please do, but right now I can't recall. If you don't mind me interrupting you in the course of a response.

BY MR. STADLER:

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Q. Go right ahead if it comes to the front of your mind. Also, if you have a paper or something in writing that relates to that seminar or presentation, I would request a copy of it.

A. Sure.

Q. On that same page you have another presentation, part of the Minnesota Bar Association, two-day seminar on mold?

A. Yes.

Q. The title was Evaluating the Case, A Reality Check. Do you see that?

A. Yes.

Q. You were the author with Mr. Sieff or Sieff?

A. Yes. We presented separate presentations in that seminar.

Q. What was the reality check you were referring to in presenting that seminar?

A. This is a seminar in October of 2002. Right.

Q. Before you were retained in this case?

A. Yes. I am attempting to remember the specific part of the reality check. I remember the rough substance of the talk. I don't remember

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specifically relating to the reality check.

Essentially it was a talk about mold sources, how you identify them, what are some of the structural problems associated with mold growth, how you sample for it, and some of -- I have a copy of it if you would like.

Q. Yes. I would like a copy of that. This was a presentation to lawyers primarily?

A. Yes. That was the Minnesota CLE, I believe.

Q. Minnesota Bar Association, right?

A. I believe so, yes.

Q. Then you had another presentation as well it appears six months later before the same association, Investigating and Interpreting Result. Do you see that?

A. Yes. And I have a copy of that presentation if you would like.

Q. Yes, I would. And again, that was to a group of lawyers?

A. That is correct.

Q. The third one looks like maybe the same time period, another day long seminar, Minnesota Bar Association, When Mold Takes Hold. I guess that is

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part of the same seminar, right, you gave a second presentation?

A. Yes.

Q. The title of your paper was Remediation, It Can Be a Nightmare?

A. Yes.

Q. What do you mean by that?

A. If you don't do it correctly, you can have a big problem with respect to remediation. In other words, if you have fungal growth on a material and you don't remove the material in a careful and thoughtful manner controlling the spore release, you can spread the spores to other areas.

Q. Based on your review of this case, is it fair to say a company called InTek conducted a mold removal in July of 2002 in the Garry home where they did not undertake the proper remediation procedures or measures?

A. I would say based on what I have looked at, that their remediation was not -- if their remediation was appropriate, we wouldn't have had the elevated levels in the carpet.

Q. We are talking about the remediation where you took out mold that was found in some

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Q. I will show you something very briefly on that. Do you know whether that work was done before or after the Garrys gave notice to Hawkeye about the situation?

A. I don't know anything about the sequence.

Q. Do you know who hired InTek to do that remediation?

A. I don't know.

Q. But it's your belief based on what you reviewed here as a result of that remediation there was some elevated mold levels found in some carpet at least when bulk sampling was done, correct?

A. Yes. I think there would have been.

MR. CONLIN: You have answered his question. With respect to these publications you have asked him for copies of, Counsel, I would appreciate it very much, because this one he has marked on is actually the original exhibit, so if you could please follow with a letter to Mr. Parsons identifying those, that would be great. That way we can have a letter, give it to Neil, and he can make copies.

MR. STADLER: Certainly.

BY MR. STADLER:

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sheetrock right below the toilet that had been leaking?

A. Correct.

Q. They did that in mid July of 2002 or about the time of the sewer backup?

MR. CONLIN: Your question is ambiguous. You said right below the toilet. I don't know whether you are referring to the ceiling or walls.

MR. STADLER: I appreciate that.

BY MR. STADLER:

Q. You are familiar with the fact in mid July of 2002 there was a sewer backup. Mr. Garry in the course of that asked InTek to look for mold in the southwest bedroom, correct?

A. I don't know the specific dates. I know there was a removal done, and I don't know the time where they removed, and it was obvious from the investigation, they removed like a square-shaped piece out of the ceiling and then several feet out from either side of the southwest corner.

Q. That was done by InTek, a company called InTek?

A. I believe so.

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Q. I wasn't going to have you go back and try to reconstruct what it is you told me. We typically do that.

A. I appreciate that, sir.

Q. The last thing I want to talk to you about on your CV, the next page you have opened there, right below the bar association presentation you gave, two or three down below that there is a reference to Mold and Insurance Issues, Insurance Extravaganza, Prior Lake, Minnesota. Do you see that?

A. Yes.

Q. What was your topic in that presentation?

A. It was about a three-and-a-half hour talk, so we covered the gamut. There is about five or six Power Point presentations given on that.

Q. This is something you made a presentation on with respect to mold, not insurance issues, correct?

A. It was primarily mold. This was given to insurance agencies, so it was given to them and giving them the perspective of here's all of the issues on it, and then kind of wrapping up how does insurance people come into part of it.

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Q. Did you speak or discuss anything to do with insurance coverage, you personally in this presentation?

A. Let's see. I gave the different scenarios that companies are choosing to limit their liability with respect to mold claims.

Q. What was the basis for your knowledge in making that presentation?

A. It was based off of information from discussions with or information that I got from our attorneys in the Twin Cities because we were putting together a presentation to colleges, and it was to the legal people for the colleges and universities around the state. So they gave me several cases and listed how the different insurance companies across the country were addressing, limiting mold liability.

Q. Some of the lawyers at the University of Minnesota, their lawyers office, gave you some case materials that discussed insurance issues relating to mold?

A. Yes, as I recall.

Q. You took those materials yourself, read them, digested them in some sort and spoke about them at this seminar?

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that in the presentation. I just talked about that when you are doing an investigation, this is some of the things that you can use to determine if there has been water infiltration.

Q. But you don't know specifically if any of the photographs from this case were used in that presentation?

A. No, I'm not sure.

Q. I will put that on my list of things for you to look for.

A. Sure.

Q. Do you recall having mentioned in that presentation the terms primary and secondary sources for mold?

A. I don't know if I did or not.

MR. CONLIN: You have answered his question.

BY MR. STADLER:

Q. If you don't know, you don't know. It's that simple.

So that presentation was a combination of both your CIH, industrial hygiene experience, as well as what you understood to be some legal issues that you could discuss regarding insurance coverage,

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A. That is correct.

Q. Other than that you don't have any insurance coverage background, do you, to speak on those issues?

A. I haven't been trained as an insurance adjuster.

Q. And you are not an attorney, correct?

A. And I am not an attorney.

Q. Did you speak about this case in that seminar?

A. I have to think about it. I don't recall if I spoke specifically about it. There may have been one -- I will have to look back on it. There may have been a photo from this particular case with respect to both the positive and the negative part, the positive being that the sheetrock was gapped and that is a good construction practice; the fact that the carpet tack strip was rusting, which is an indication of water infiltration, and that the back of the carpet tack strip had rust stains on it which was with respect to water infiltration. I don't know. Although I have used it in other presentations where we rolled back the portion of the carpet and there is the water stain line on that. There is a picture of

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correct?

A. Correct. It was to give them on the background of the scope of the program from all different angles, public health, insurance, et cetera.

Q. Is the Garrys' home below grade, the one we are talking about now?

MR. CONLIN: Which portions?

THE WITNESS: A portion of it is below grade.

BY MR. STADLER:

Q. Which portion?

A. The portion of the Garry home that is below grade is -- can we take a look at the diagram?

Q. Sure. Let's go back to the diagram.

A. My recollection on a portion is fairly good. On the other part, it's not as good as I would like, so let's just go through it.

Southwest bedroom, northwest bedroom, and I believe a portion of, it's been variously referred to as the storage room or the utility room, and I believe the hallway in between the bathroom and the outer wall on the lower level. Then, as I recall, a portion of the rec room, I think that part is at grade. Do we have pictures of the back side of the

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NEIL G. CARLSON, MS, CIH**house that could assist?**

Q. Again, the only thing I have with respect to your report is what you put in front of us as tabs 1 through 8.

MR. CONLIN: Do you have other pictures of the home?

MR. STADLER: Nothing here.

THE WITNESS: Let's get those. If you would like to question me on something else, go ahead and we can come back to that.

(Discussion had off the record.)

THE WITNESS: My recollection ends about here, but the hallway would be across from the bathroom. The southwest bedroom, the northwest bedroom and the storage room/utility room are ones that I know for sure are below grade. I'm not sure, there may be portions of the rec room that is below grade but I don't recall exactly which portions. I think maybe along this side, on the south side.

BY MR. STADLER:

Q. You spoke at one of your presentations or conferences about floor coverings for basements?

A. Yes.

Q. Are there certain types of floor

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coverings that promote mold growth as opposed to other types of floor coverings?

A. It depends if you have a subslab moisture problem and how the slab is set up.

Q. In the Garry case, for example, let's look at that.

A. Carpet can be problematic, floor tile can be problematic.

Q. Both of which were in their basement in some areas?

A. Yes. And even cement with dirt on it can be problematic, or with dust on it, can be problematic.

Q. We were talking a few minutes ago about the remediation InTek did about where the toilet allegedly was leaking. There is some reference to it. I will mark as Exhibit 8 a document entitled Microbial Assessment for Fountain Drive, Sioux Falls, South Dakota, dated 2002, prepared by Legend Technical Services, Inc. Let's mark that as Exhibit 8.

(Whereupon, Carlson Deposition

Exhibit No. 8 was marked for identification.)

BY MR. STADLER:

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Q. I am showing you what has been marked as Exhibit 8, and ask you if you have seen this before. This is a report, if you look at the second page, dated September 2, 2002, final report for microbial assessment for the residence, and it's the Garrys' home?

A. Um-hum.

Q. It's from a Cheryl Sykora at Legend Technical Services, Inc. Have you ever heard of Ms. Sykora?

A. Yes, I have done work for her.

Q. For her?

A. Yes.

Q. It's to a Mr. Bill Bloemendal from GME Consultants, Inc. in Minneapolis. Do you see that?

A. Yes, I do, sir.

Q. Do you know Mr. Bloemendal?

A. No, I don't.

Q. But you know Ms. Sykora?

A. Yes, sir.

Q. How do you know her?

A. I did fungal analysis for her.

Q. When you say for her, for her company Legend Technical?

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A. Yes. For her company, Legend Technical Services.

Q. For what period of time did you do work for Ms. Sykora?

A. I don't recall exactly. It was several years.

Q. Was it periodic or were you an employ of her company?

A. Periodic I was a consultant for her. I did her microbial analysis.

Q. Did you report to her when you worked for that entity?

A. I would not report to her. She would send me bulk samples or airborne samples and I would analyze them and give her the results.

Q. Did you know prior to today that she or her company had done a microbial assessment of the Garrys' home?

A. I believe someone had mentioned she may have done that, but that was in passing, and I can't recall for sure who told me that, but I was not appraised of the report. They just said -- I think someone mentioned I think Cheryl is doing a test on the Garry residence.

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Q. Do you know GME Consultants, have you heard of them? That is Mr. Bloemendal's company.

A. **No. I have not heard of GME.**

Q. Now, the third page of this document, Exhibit 8, makes reference to, if you look at executive summary?

A. **That is correct.**

Q. It makes a statement about the middle of the paragraph towards the end, "Poly enclosure and HEPA filtered negative pressure was not used for removal of gypsum wallboard from the lower level bedroom below the toilet leak." Do you see that?

A. **Yes, I do.**

Q. Is that consistent with your understanding of what was done in July of 2002?

A. **Yes. My understanding they didn't use, this would be termed a controlled abatement. They did not use controlled abatement.**

Q. Again, we are talking about removal of mold from the southwest bedroom?

A. **Yes.**

Q. That was from InTek as far as we know?

A. **You have told me that.**

Q. The next sentence states, "The

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did did not rely on her analysis.

Q. Do you consider her to be a reputable and certified industrial hygienist?

A. **I would like to go off the record for just a second because I don't want to be in trouble on something. Can I be off the record for a second?**

Q. You can consult with your attorney.

A. **I need to do that.**

(Discussion had off the record.)

BY MR. STADLER:

Q. Let me go back and strike the question. I wanted to go to in this report the third, fourth page in, narrative report. If you go -- do you see that? There is a statement they are in the third paragraph under background information about again the removal work that was done. All I'm asking you, if that description is consistent with your understanding about what happened?

A. **Paragraph 3 under 2.0?**

Q. Yes. And particularly this sentence, "Gypsum wallboard was removed from below the master bedroom leak at that time," referring to 2002. "It is our understanding the work was performed without the work of an enclosure and without the use of a HEPA

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appearance of gypsum wallboard dust tracked through the garage visible in photo 17," I believe there are photographs attached to this report, "indicates that the removal of the GWB ceiling," GWB is gypsum wallboard, "compacted by the freezer leak was also not done which controls," do you see that?

A. **Yes, I do.**

Q. You mentioned earlier in your deposition today about the refrigerator leaking and ice maker leaking?

A. **Yes.**

Q. That was in September of 2002?

A. **I don't recall the exact date, but I know that occurred, yes.**

Q. Do you know whether engineering controls were used when that material was removed, that gypsum wallboard was removed?

A. **I don't know that. I would rely on this report. I don't know if I did or not.**

Q. In the course of your work with Ms. Sykora, did you come to rely upon work that she did or her analysis in connection with any mold assessments?

A. **I did not rely on her analysis at all.**

She would submit results to me, but the work that I

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filtered negative air machine." Is that your understanding?

A. **That paragraph is my understanding of it, yes.**

Q. Now, on page 8 of 11, if you go to that page for me at the very bottom, it talks about Stachybotrys spores. Do you see that?

A. **Um-hum.**

Q. And they did some air sampling in that lower bedroom, and I believe they are referring to the southwest bedroom?

A. **Um-hum.**

Q. It states in the middle there, "The number of Stachybotrys spores detected were low and no active Stachybotrys growth was observed, nor were wet materials observed." Do you see that?

A. **Yes.**

Q. Do you have any information that relates to that? I know you haven't seen this report. Were you ever told testing was done in September of 2002, beside the Nova testing?

A. **This one I was aware testing may have been done. I haven't seen this report. Is that clear enough?**

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Q. Because you mentioned earlier somehow you were aware Cheryl Sykora was involved in some testing?

A. Yes, but I wasn't aware of this report.

Q. So you never had occasion to talk to her directly about her evaluation of the home?

A. No, I have not.

Q. They go on to say at the end of this, "It is likely the removal of the fungal contaminated GWB from the lower level bedroom is the cause of these airborne spores rather than active Stachybotrys growth." Do you see that?

A. Yes, I do.

Q. Is that something based on what you know now about the removal done by InTek that you would agree with?

A. I don't know if I would particularly parse it the way that she did because I don't know if during the course of the water coming into the space, if some of the Stachybotrys spores came out onto the carpet at that time and how to parse out the poor removal as opposed to possibility that some of the spores were deposited prior to the removal. I can't parse out that particular one, if that is what you are

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Stachybotrys and Chaetomium spores.

Q. Would the same be true as well with respect to the removal done and cleanup done after the refrigerator leak when there was no engineering controls used as well?

A. I don't know about Stachybotrys or Chaetomium. I could go under the rough assumption based on the fact that we did see on some of the sheetrock that wasn't removed some growth, that there probably was some spores released during that uncontrolled abatement.

Q. As to the uncontrolled abatement versus mold spores that may have resulted from the leaking toilet before that, would you say that one of those was a primary source of the mold found in the home?

MR. CONLIN: For that species?

BY MR. STADLER:

Q. Yes, of the Stachybotrys.

A. You are talking about primary source of airborne distribution of it?

Q. Right. You talked about the improper removal playing a contributing role in the Stachybotrys found throughout the house, and I am asking you comparing that event to just the alleged

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asking me to.

Q. You don't have any information that would lead you at this point to dispute or disagree with her assessment?

MR. CONLIN: I think he answered that, yes, I would put it differently. I think that is exactly what he said.

THE WITNESS: I would put it differently. I do not know if -- let me see how to put it. I think I will stand on my original answer.

BY MR. STADLER:

Q. Let me approach it this way. It may be helpful, and it may not be, and I will hear from your counsel if that is so.

A. Sure.

Q. What impact did the removal -- strike that.

What impact did the failure to use proper engineering controls by InTek in removing that mold in the southwest bedroom have on the mold that was found in the home?

A. The poor abatement of the mold in that situation as described as I understand it would have contributed to, in some part to the dispersal of both

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leaking of the toilet over some period of time going down, did you surmise through walls and being deposited, the water in some areas of that southwest bedroom and you say also the northwest bedroom, those two scenarios, can you say which of those two were primary and secondary sources of mold in the house? And I am talking about Stachybotrys and the mold --

A. Right. Right. I don't know if I could go primary, secondary on that one, but I would say it is not an insignificant source. It would have been a sufficient spore distribution mechanism. But the part that I am trying to parse out is that the ceiling collapsed prior to the abatement, so that would have also been an effective spore distribution mechanism.

Q. The ceiling collapsed in 1999, it didn't collapse in 2002, sir?

MR. CONLIN: That is right.

THE WITNESS: Correct.

BY MR. STADLER:

Q. You are saying there could have been some Stachybotrys mold resulting in the house from the falling out of the ceiling in 1999?

A. That is correct, yes, sir.

Q. And you are also saying that was not an

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1 NEIL G. CARLSON, MS, CIH
 2 insignificant event, right?
 3 **A. No.**
 4 Q. That is correct?
 5 **A. That is correct.**
 6 Q. And also was not an insignificant event
 7 when the InTek firm hired by the Garrys used improper
 8 engineering controls in removing mold from the same
 9 bedroom in the southwest bedroom?
 10 **A. Both events are significant.**
 11 Q. You don't know which event occurred
 12 when Hawkeye Insurance Company was notified of this
 13 case?
 14 **A. No, I'm not aware of the timetable when**
 15 **the insurance company was notified.**
 16 Q. This report, if you go to the very end
 17 of it --
 18 **A. Is that the picture?**
 19 Q. Yeah, the picture. Yet another diagram
 20 where someone has attempted, and I believe it is these
 21 folks Legend, to tell us where in the basement of the
 22 Garry home various events impacted. There is a
 23 reference here to the toilet leak in the corner of the
 24 southwest bedroom, and then there is a storage room,
 25 laundry, bathroom being affected and northwest bedroom

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 2 being affected by sewer backup. Do you see that?
 3 **A. Yes, I do.**
 4 Q. Then there is another area near the rec
 5 room, the corner of the rec room where there was the
 6 freezer leak from above?
 7 **A. That is correct, sir.**
 8 Q. And you are familiar with all of those
 9 events, right, based on at least the GeoTek report and
 10 some of the other reports you have seen?
 11 **A. Yes, I am, sir.**
 12 Q. And that diagraming, do you know
 13 whether that is consistent with what actually happened
 14 in those events to the best of your knowledge?
 15 **A. To the best of my knowledge, yeah.**
 16 Q. Now, if I could, I think we have marked
 17 the document I want to refer to.
 18 **A. Sir, do you want this back?**
 19 Q. That goes with your report, I believe.
 20 **A. No, that wasn't with the report.**
 21 Q. You are correct. Let me show you what
 22 has been marked as Exhibit 7. This report refers in
 23 the first page, this is a report to Mr. Conlin
 24 indicating that Mr. Wilkinson had been in the Garry
 25 home doing an inspection in June of 2003. Do you see

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 2 that?
 3 **A. Yes.**
 4 Q. There had been apparently a major
 5 rainstorm or recent rainstorm, I should say, that
 6 resulted in water intrusion in the basement?
 7 **A. Um-hum.**
 8 Q. The northwest basement bedroom was
 9 involved, I believe, at least the second time they
 10 were present on June 26, 2003. Do you see that?
 11 **A. Yes.**
 12 Q. And this says that that rainstorm
 13 resulted in a pad along the west wall below the west
 14 window in the northwest basement bedroom being wet.
 15 Do you see that?
 16 **A. Yes.**
 17 Q. From the photograph, if you still have
 18 that schematic you drew on earlier today, that would
 19 be in an area along the west wall that you indicated
 20 there was carpet staining when you looked at it in
 21 March, right?
 22 **A. Yes, sir. I don't know the precise**
 23 **location of that leak.**
 24 Q. When we talk about the leak, we are
 25 talking about a window leak?

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1 NEIL G. CARLSON, MS, CIH
 2 **A. Yes.**
 3 Q. Not a toilet leak?
 4 **A. Window leak.**
 5 Q. There was a leak in June of 2003 that
 6 resulted in wetting of areas, part of which may be
 7 areas you highlighted earlier today regarding the
 8 toilet leak?
 9 **A. Part of the crescent, yeah.**
 10 Q. If you can go to the last, the third
 11 page of this report.
 12 **A. That is the conclusions part, sir?**
 13 Q. Yes. There is a reference to the
 14 southwest basement bedroom?
 15 **A. Um-hum.**
 16 Q. GeoTek felt along the floor of all
 17 floor walls. It says, "The carpet padding and cement
 18 were all dry. Water infiltration was not observed on
 19 any of the walls, ceiling or windowsills." Do you see
 20 that?
 21 **A. Yes, I do.**
 22 Q. Then it talks about the northwest
 23 basement bedroom. Again states, "The wet flooring
 24 noted by the realtors on June 26 was still present
 25 along the west wall near the west window. GeoTek felt

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1 NEIL G. CARLSON, MS, CIH
2 along all four walls for wetness. The wall was
3 isolated to the west wall below the west window." Do
4 you see that?

5 **A. Yes, I do.**

6 Q. Then the next paragraph goes on to say
7 in the middle, "The carpet was still rolled back from
8 the west wall. The staining on the carpet extends
9 from the south corner to the center of the window."
10 Is that the same area of staining that you say you
11 noted in March of 2003?

12 **A. The staining on the carpet --**

13 Q. On the west wall of the northwest
14 bedroom?

15 **A. -- extends from the south corner to the**
16 **center. Yeah, that is the old stain that we are**
17 **referring to.**

18 Q. Yeah, but there is apparently staining
19 that they are noting here, right, in July or June of
20 2003, and it says, "The carpet staining matches the
21 pattern of water intrusion in this area. It does not
22 run the length of the wall. It was also noted that
23 the tack strip was the darkest in that area." Do you
24 see that?

25 **A. Yes.**

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1 **NEIL G. CARLSON, MS, CIH**

2 Q. What I'm confused about is in July or
3 June of 2003 there is this staining along the west
4 wall and there is also noted that the tack strip is
5 discolored, and associating it with the rainstorm that
6 just happened, correct?

7 **A. Yeah.**

8 Q. Now, is this observation the thing that
9 you are referring to in your report and your opinion
10 as to how you associate the northwest bedroom
11 condition with the leaking toilet, because isn't this
12 basically almost the same language you used in your
13 report?

14 **MR. CONLIN: I object to the form of**
15 **the question. Answer if you can.**

16 **BY MR. STADLER:**

17 Q. We can look at your report again and
18 your conclusion. If you can look at your conclusion
19 in your report on the contribution, you make reference
20 to, you say, "Based on observed stain markings on the
21 carpet and discolored carpet tack strips, the leak
22 from the toilet area extended along the east, south
23 and west sides of the southwest bedroom and along the
24 west side of the northwest bedroom." That is where
25 you made your markings on Exhibit 1 earlier today?

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2 **A. It's certainly possible that that water**
3 **stain may have been due to a window leak based upon**
4 **looking directly at this.**

5 Q. What I'm getting at is when you did
6 your report, were you referring to this event, this
7 water event in June of 2003 and not any prior water
8 event?

9 **A. I was not referring to that event in**
10 **June. I was referring to a possible prior event,**
11 **yeah, possible prior event.**

12 Q. Which could have been a leak through
13 the window, not from a leaking toilet, right?

14 **A. It is certainly possible given this**
15 **particular statement, yes, sir.**

16 Q. And this document also refers in the
17 next paragraph, I think we talked about it earlier
18 this afternoon, but I just want to make sure we are on
19 the same page. "Outside there is a large gap between
20 the foundation and landscaping near the northwest
21 bedroom window." Do you see that?

22 **A. Outside visual, west side, yes.**

23 Q. That is on the west side of the house
24 right outside the west wall of the northwest bedroom,
25 right?

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2 **A. Yes.**

3 Q. It says, "Any water pooling in this
4 area is definitely sloping toward the house and
5 eventually down the foundation walls," right?

6 **A. Um-hum.**

7 Q. Is that a possible source of water
8 intrusion in that area that you highlighted earlier
9 today in the northwest bedroom?

10 **A. It is a possible source, yes, sir.**

11 Q. Can you say today based upon what you
12 know and what you looked at that the leaking toilet
13 was more likely a source of moisture in the northwest
14 bedroom area that you talked about than a leak from a
15 window or through a crack in the foundation?

16 **A. Based on this particular specific**
17 **information, I can't say for certain what the source**
18 **of the water is, whether it is the window or the**
19 **toilet.**

20 Q. In the northwest bedroom?

21 **A. In the northwest bedroom, yes, sir.**

22 Q. Therefore, with respect to any air
23 sampling that was done or bulk sampling taken from the
24 northwest bedroom, you can't say any mold spores found
25 in those samples related to or were contributed to the